

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50569 of 2023

Applicant :- Ramveer Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Badri Mani Tripathi

Counsel for Opposite Party :- G.A.,Akhilesh Singh,Shivam Yadav

Hon'ble Sameer Jain,J.

1. Heard Sri Badri Mani Tripathi, learned counsel for the applicant, Sri Raj Bahadur, learned Advocate, holding brief of Sri Akhilesh Singh, learned counsel for the informant and Sri Jhamman Ram, learned AGA-I, for the State.

2. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.143 of 2023, under Sections 302, 504,506, 336, 452 and 34 IPC, Police Station Saurikh, District Kannauj during pendency of the trial.

3. FIR of the present case was lodged against the applicant and two others and according to the FIR, applicant along with two other accused persons made assault upon the son-in-law of the informant by pelting stones/bricks and due to assault made by them the son-in-law sustained internal injury and died.

4. Learned counsel for the applicant submits that in the FIR only general allegation of stone pelting/throwing has been made against the applicant and other co-accused persons and according to the informant due to internal injury deceased died but during investigation when the statement of first informant was recorded under Section 161 Cr.P.C. then he entirely changed the version of the FIR and stated that applicant and two other accused persons

made assault upon the deceased and thereafter co-accused Suneel and Chandrashekhar caught hold the deceased and applicant strangled him and this fact clearly suggests that actually nobody could witness the real incident and due to previous enmity applicant has been made accused in the present matter.

5. He further submits that after recording the statement of the informant under Section 161 Cr.P.C., the wife of the informant and his mother-in-law also started repeating his version and during investigation one other witness Netrapal was also introduced by Investigating Officer, who is neighbour of the informant and he also repeated the version of the informant and in the light of FIR all these facts clearly suggests that actually neither the informant nor any other witness could see the real incident.

6. He further submits that applicant is having two criminal history of Sections 323 and 325 IPC but in both the cases applicant is on bail and in the present matter he is in jail since 3.4.2023, i.e., for the last more than eight months.

7. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that informant and three others including his wife and mother-in-law were the eye witnesses and they have categorically stated that applicant is the person, who strangled the deceased but both the learned counsels could not dispute the fact that when informant lodged FIR then this fact was not disclosed by him and in the FIR he only alleged that applicant and other co-accused persons pelted stones and due to that deceased sustained internal injury and died.

8. Learned AGA, however, further pointed out that apart from two cases applicant is also accused in a case under the Gangsters Act

but he fairly conceded that on the basis of the present case, he was made accused under the provisions of Gangsters Act and in the present matter applicant is in jail since July, 2023.

9. I have heard learned counsel for the parties and perused the record of the case.

10. However, from the statements of the witnesses recording during investigation including the statements of the informant, his wife and mother-in-law it appears that they witnessed the incident and according to them applicant along with two other co-accused persons made assault upon the deceased and thereafter applicant strangled him but the informant, who in his statement under Section 161 Cr.P.C. provided photographic description of the incident did not state these facts in the FIR and in the FIR he only stated that applicant and other co-accused persons pelted stones upon the deceased and due to which he sustained internal injuries and died therefore, prima facie argument advanced by the learned counsel for the applicant that non witnessed the real incident cannot be completely ruled out at this state.

11. However, from the record it reflects that applicant, apart from the present case, is also having criminal history of three cases but out of three cases one case is of Gangsters Act in which applicant was made accused on the basis of present matter and remaining two cases are of Sections 323 and 325 IPC.

12. Further, applicant in the present matter is in jail since 3.4.2023, i.e., for the last more than eight months.

13. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

14. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

15. Let the applicant-**Ramveer Singh** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

16. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

17. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 12.12.2023
SKM