

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51207 of 2023

Applicant :- Dilip Kumar Rajbhar

Opposite Party :- State of U.P.

Counsel for Applicant :- S.S. Sharma, Sanjay Kumar Chaurasia

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri S.S. Sharma, learned counsel for the applicant and Sri Rajeev Dhar Dwivedi, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 182 of 2023, under Sections 323, 304 IPC, Police Station- Kopaganj, District- Mau, during pendency of the trial in the court below.

3. FIR of the present case was lodged on 19.06.2023 against applicant and according to the FIR, applicant was fighting with her mother and when informant i.e. his father and his mother was trying to pacify the matter then suddenly applicant caused injury on the head of the informant through iron hammer and when mother of the applicant tried to intervene then he also caused injury upon her head. It is further mentioned in the FIR that informant immediately after the incident has taken his wife to the hospital where during treatment she died.

4. Learned counsel for the applicant submitted that FIR of the present case was lodged by the father of the applicant and actually father of the applicant is heavy drunker and he used to consume liquor in routine manner and also used to sell his property and only due to this reason, some fighting was going on between husband and wife and in the incident, deceased and informant both sustained injuries but unfortunately deceased died. He further submitted that as applicant also raised voice against his father, therefore, after the death of the deceased i.e. wife of the informant, only to save his skin, informant lodged the FIR against the applicant. He further submitted that from the perusal of the FIR, it appears that all of sudden, in sudden provocation, applicant caused injury to his father and mother i.e. deceased.

5. He further submitted that applicant is not having any criminal history and he is in jail since 05.07.2023.

6. Per contra, learned AGA opposed the prayer for bail and submitted that applicant not only caused injury to his mother but also to his father and in the incident, his mother lost her life. He further submitted that father of the applicant sustained as many as four injuries and it is not a case of sudden provocation, therefore, considering the fact that applicant is the son of the deceased, he should not be released on bail.

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

8. Considering the fact the applicant is the son of the deceased and even he caused injury to the informant i.e. his father and his father sustained as many as four injuries, in my view, applicant is not entitled to be released on bail.

9. Accordingly, the instant bail application is **rejected**.

10. 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 :- 30.11.2023

KK Patel