

Neutral Citation No. - 2023:AHC:234934

RESERVED ON 6.12.2023

DELIVERED ON 12.12.2023

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51689 of 2023

Applicant :- Siddhartha Chaudhary

Opposite Party :- State of U.P.

Counsel for Applicant :- Sunil Kumar Pandey,Rajrshi Gupta,Sunil Singh

Counsel for Opposite Party :- G.A.,Vinod Kumar Srivastava

Hon'ble Siddharth,J.

Heard Shri Dilip Kumar, learned Senior Counsel assisted by Shri Sunil Kumar Pandey, learned counsel for the applicant; Shri Vinod Kumar Srivastava, learned counsel for the informant and learned A.G.A.

The instant bail application has been filed on behalf of the applicant, Siddhartha Chaudhary, with a prayer to release him on bail in **Case Crime No. 151 OF 2023 under Sections 302/34 IPC, and section 3/25/27 Arms Act Police Station Arnia, District-Bulandshahar** during pendency of trial.

There is allegation in the First Information Report that uncle (mama), of informant,namely, Kaushendra has been murdered in the night of 9-10.7.2023 by firing by some unknown person while he was in his poultry farm.

Learned counsel senior counsel of applicant has submitted that no one was named in the First Information Report. Antemortem head injury was suffered by the deceased. Recovery of one country made pistol and spear (Ballam) was allegedly made on pointing out of applicant

and co-accused, Deepak alias Bhagat Singh, respectively after three days of incident from bush. There was no public witness of recovery. Charge sheet has been submitted by investigating officer against three persons, including applicant. There was no motive for him to commit the alleged offence. His confessional statement recorded by police is not admissible in evidence. There is no eyewitness of the incident. Applicant had no concern with the deceased and his wife. Co-accused, Deepak alias Bhagat was related to the deceased and deceased wanted to take loan from applicant's finance company wherein he worked. Co-accused, Deepak alias Bhagat, gave information about applicant to the deceased few days before stating that he could get loan. He has pointed out to the statement of wife of deceased, namely, Rekha, which shows that she had strained relation with deceased (her husband) and she wanted to get rid of him. She developed intimacy with co-accused, Deepak alias Bhagat and deceased had threatened her of life, in case she does not break her relationship with co-accused, Deepak alias Bhagat. She has asked her husband to divorce her but he refused to give her divorce. In order to get rid of her husband, she requested co-accused, Deepak alias Bhagat to kill him. Deepak alias Bhagat is alleged to have contacted applicant who used to work in his finance company and thereafter they hatched conspiracy and applicant and co-accused, Deepak alias Bhagat, are alleged to have caused murder of deceased. Son of deceased has also stated that his mother asked him to take the dog in the form of

deceased along with him since two persons are coming to meet his father(deceased) and after 2-3 hours her mother called him to come back. In the morning dog started barking then he discovered that his father was murdered. It has further been submitted that recovery of country made pistol and spear has been made on pointing out of applicant and co-accused, Deepak alias Bhagat Singh, but there is no public witness of the recovery. Recovery of spear was made on the pointing out of the co-accused, Deepak alias Bhagat Singh. Learned Senior Counsel for the applicant has further submitted that applicant has been falsely implicated in this case. Applicant has no criminal history. He is in jail since 13.7.2023.

Learned counsel for informant and learned AGA have vehemently opposed the prayer for bail of applicant and submitted that there are clear allegations against applicant of committing alleged crime with the help of co-accused, Deepak alias Bhagat Singh. Son the deceased had supported the allegations made in his statement under section 161 Cr.P.C. against his mother. In his statement recorded under section 164 Cr.P.C. he has submitted that there is recovery of weapon used in the alleged crime from the pointing out of the applicant and co-accused. Applicant has admitted going with co-accused, Deepak alias Bhagat, for committing the alleged offence. Informant has testified in his statement recorded under section 161 Cr.P.C. that wife of the deceased had illicit relationship with co-accused, Deepak alias Bhagat and when deceased protested, she quarrelled with

him. Other witnesses have also testified about the above motive.

After hearing the rival contentions, this court finds that there is one firearm wound of entry with corresponding wound of exit on the chest of deceased and there is also an incised wound found on his chest, 3 X 1 cm. cavity deep. It does not appear probable that one person shall cause incised wound as well as firearm wound both simultaneously by two weapons since handling of spear normally requires use of both the hands. The name of the applicant has surfaced in statement of wife of the deceased as well as co-accused, Deepak alias Bhagat. It is corroborated by incriminating recovery of country made pistol which was although recovered from the open place but in the totality of facts and circumstances of the case it does not appear to be case of false implication of the applicant.

The bail application of applicant is hence rejected.

The court below is directed to conclude the trial against the applicant, as expeditiously as possible, preferably within a period of one year from the date of production of certified copy of this order as per section 309 Cr.P.C.

Order Date :- 12.12.2023

Atul kr. sri.