Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51808 of 2023

Applicant :- Ishamuddin @ Saif
Opposite Party :- State of U.P.
Counsel for Applicant :- Suyash Mehrotra,Sudhir Mehrotra
Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Sudhir Mehrotra, learned counsel for the applicant and Sri Jhamman Ram, learned AGA-I for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 296 of 2023, under Section 304 IPC, Police Station Bilariyaganj, District Azamgarh during pendency of the trial.

3. FIR of the present case was lodged against applicant and her mother Shamshul under Section 304 IPC and according to the FIR due to dispute arose between children, applicant and her mother made assault upon the head of the mother of the informant through wooden stick and due to the assault made by them, she sustained injuries and died.

4. Learned counsel for the applicant submitted that even from the perusal of the FIR and statement of eye witnesses recorded during investigation, it reflects that applicant and her mother were not having any intention to cause death of the deceased and it is a case, in which, due to the dispute of the children incident all of sudden occurred and unfortunately deceased died.

5. He further submits that co-accused Shamshul, the mother of the applicant, has already been released on bail and her bail order has been annexed along with instant bail application and on merit case of applicant is at par with her.

6. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 22.08.2023.

7. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for

the applicant.

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

9. Considering the fact that during dispute arose between children all of sudden incident appears to be occurred and due to single injury on the head, deceased died and co-accused Shamshul has already been enlarged on bail and on merit case of applicant is at par with her, in my view, applicant is entitled to be released on bail.

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

11. Let the applicant - **Ishamuddin @ Saif** 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.

12. 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.

13. 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 :- 4.12.2023
AK Pandey

Digitally signed by :-
ANUPAM KUMAR PANDEY
High Court of Judicature at Allahabad