

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51883 of 2023

Applicant :- Languriya

Opposite Party :- State of U.P.

Counsel for Applicant :- Amit Singh, Sunil Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Dr. Gautam Chowdhary, J.

1. Heard learned counsel for the applicant, learned A.G.A for the State and perused the record.

2. The first information report of the present matter was lodged on 07.03.2023 by Pappu Singh against the applicant, Deepu and Shailendra alleging therein that on 07.03.2023 at about 06.30 p.m. his brother Gopali had come to village from Mathura on the festival of Holi and was applying colours to the villagers wherein Deepu and Languriya shot him. In the incident Shailendra is also involved. The weapon from which murder has been done was provided by Shailendra.

3. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the first informant is not an eye-witness of the incident. It is further argued that during investigation one Pinki Devi was interrogated by the police who is the wife of Raju Singh the elder brother of the deceased who had died around 09 months ago and the deceased Gopali was then living with her and taking care of her, her children and meeting out her expenses since the last three months who although states that the incident was witnessed by her and her sister Urmila in which Deepu, Sheelu and the applicant had shot the deceased but the same is also a concocted version as the postmortem examination report shows three gun shot injuries but there are only two wounds of entry and the other is a wound of exit. It is argued that in the site plan prepared by the Investigating Officer no place where the alleged eye-witnesses were present and from where they have seen the incident has been marked therein. It is argued that as such the present incident has not been witnessed by anyone and there is no eye-witness to it. It is argued that one country-made pistol of 315 bore was recovered from the possession of the applicant at the time of his arrest. It is argued that

there is no corroboration of use of the said weapon in the present incident. Learned counsel for the applicant further argued that co-accused, Deepak alias Deepu, against whom specific allegation of firing shot upon the deceased and against whom recovery of a country made pistol has been alleged as has been alleged against the applicant, has already been granted bail by a coordinate Bench of this Court vide order dated 29.08.2023 passed in Criminal Misc. Bail Application No. 38041 of 2023 and the case of applicant is not on the worse footing than that of the co-accused Deepak alias Deepu, therefore, applicant is also entitled to be enlarged on bail on the ground of parity. It is further argued while placing paragraph-17 of the affidavit that the deceased was a hardened criminal having 17 criminal cases pending against him. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. He next submits that criminal history of three cases of applicant has been explained in para-20 of the affidavit filed in support of the bail application. The applicant is languishing in jail since 19.04.2023.

4. Per contra, learned A.G.A. has opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence, but he does not dispute that similarly circumstanced co-accused has already been granted bail.

5. After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, without expressing any opinion on merits of the case, this Court is of the view, that the applicant may be enlarged on bail.

6. Let applicant-**Languriya**, involved in Case Crime No. 133 of 2023, under Sections 302, 120-B I.P.C. and Section 5/27 of Arms Act, Police Station Iglas, District Aligarh, be enlarged on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

(i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

(ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 229-A IPC.

7. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail in accordance with law.

8. The bail application is **allowed**.

Order Date :- 11.12.2023

Mustaqeem.