

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53344 of 2023

Applicant :- Vishal Sahani

Opposite Party :- State of U.P.

Counsel for Applicant :- Pramod Kumar Sahani

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Pawan Kumar Srivastava, learned Advocate, holding brief of Pramod Kumar Sahani, learned counsel for the applicant and Sri Ajeet Kumar Madheshiya, learned Brief Holder, 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.178 of 2023, under Sections 302 and 504 IPC and Section 4/25 Arms Act, Police Station Bansi, District Siddharthnagar during pendency of the trial.

3. FIR of the present case was lodged against the applicant and three others on 23.6.2023 at about 16.40 hours and according to the FIR, on 23.6.2023 at about 3.30 PM when father of the informant was returning his home on the way applicant along with his associates inflicted knife injury to him due to previous enmity and due to injury father of the informant died.

4. Learned counsel for the applicant submits that applicant is innocent and he never participated in the alleged incident and it appears that due to previous enmity he has been made accused in the present matter.

5. He further submits that informant was not an eye witness and even during investigation no eye witness could come forward and

only evidence in the present case against the applicant is his confessional statement before the Police and recovery of knife on his pointing out.

6. He further submits that except these two evidences, there is no other evidence against the applicant on record.

7. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 24.6.2023.

8. Per contra, learned AGA although opposed the prayer for bail but could not dispute the fact that there is no eye witness account and it appears that on the basis of suspicion applicant was made accused in the FIR of the present case.

9. Learned AGA however submits that when applicant and another co-accused person were arrested then they confessed their guilt and from the possession of the applicant knife was recovered but he fairly further conceded that except these two evidences, there is no other evidence against him on record.

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

11. Considering the fact that except the confessional statement of the applicant and other co-accused persons before the Police and recovery of knife from the possession of the applicant, there is no other evidence against the applicant on record and applicant is not having any previous criminal history and in the present matter he is in jail since June, 2023, in my view, applicant is entitled to be released on bail.

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

13. Let the applicant-**Vishal Sahani** 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.

14. 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.

15. 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 :- 13.12.2023
SKM