

**Court No. - 70**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 53134 of 2023

**Applicant :-** Ram Bahadur Singh@ Mintu

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Krishna Gopal Singh, Virendra Singh Parmar

**Counsel for Opposite Party :-** G.A.

**Hon'ble Sameer Jain, J.**

1. Heard Sri Virendra Singh Parmar, learned counsel for the applicant and Sri Manoj Kumar Singh, learned Brief Holder for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 490 of 2022, under Section 302 IPC, Police Station Sumerpur, District Hamirpur, during pendency of the trial in the court below.
3. FIR of the present case was lodged against the applicant on 27.10.2022 by his elder brother and according to the FIR in the night of 26/27.10.2022 applicant made assault upon his younger brother through axe and due to the assault made by him, he died.
4. Learned counsel for the applicant submitted that applicant is brother of the informant and deceased and on the basis of false allegation, he has been made accused in the present matter.
5. He further submitted that there are three eye witnesses of the incident and all the three when appeared before the trial court then they did not support the prosecution case and witnesses Amit and Dileep nephews of the applicant since beginning did not support the prosecution case and they have declared hostile.
6. He further submitted that however informant of the case in his examination in chief supported the version of the FIR but during cross-examination he did not support the prosecution case.
7. He further submitted that however applicant is also having previous criminal history of section 307 IPC but his criminal history has been explained in the instant bail application and applicant has been convicted in that case in the year 2012 and

appeal filed by the applicant is pending before this Court and he is on bail during pendency of the appeal.

8. He further submitted that applicant is in jail in the present matter since 30.10.2022.

9. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is brother of the informant and the deceased and as per eye witness account, he committed the murder and it appears that due to his influence during trial witnesses did not support the prosecution case.

10. He further submitted that applicant misused the liberty of bail granted to him in appeal as during bail in pending appeal he committed the new crime and therefore, he should not be released on bail.

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

12. From the perusal of the record, it reflects that applicant is brother of the informant and deceased and informant i.e. his brother and his two nephews were the eye witnesses and however two nephews of the applicant declared hostile during trial but from the record it reflects that informant initially supported the prosecution case in his examination in chief but during cross examination he also did not support the prosecution case.

13. From the record it also reflects that applicant is a convicted person and was convicted in the year 2012 for offence under section 307 IPC and after conviction, he filed appeal before this Court which is still pending.

14. However, applicant is on bail during pendency of the appeal and it reflects that during pendency of the appeal when applicant was on bail, he committed the instant crime.

15. Therefore, I find force in the argument advanced by learned AGA that possibility cannot be ruled out that due to pressure of the applicant, his family members did not support the prosecution case during trial.

16. Be that as it may, considering the facts and circumstances of the case discussed above, particularly the fact that applicant is a previous convict and he misused the liberty of bail while he was on bail during pendency of appeal, in my view, applicant is not

entitled to be released on bail.

17. Accordingly, the instant bail application stands ***rejected***.

18. 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 :- 12.12.2023**

Ankita