

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1327 of 2023

Applicant :- Rohitash Alias Rohit Singh

Opposite Party :- State Of U.P. Thru. Its Addl. Chief Secy (Home) Lko.

Counsel for Applicant :- Alok Yadav, Deo Prakash Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.
2. This bail application has been moved by the accused/applicant - **Rohitash Alias Rohit Singh** for grant of bail, in Case Crime No.0195 of 2022, under Sections 302, 307 I.P.C., Police Station Umari Begumganj, District Gonda, during trial.
3. Learned counsel for the accused-applicant while pressing the bail application submits that the applicant has been falsely implicated in this case and he has not committed any offence as claimed by the prosecution.
4. It is further submitted that the applicant was not named in the F.I.R., however, after a day of lodging of the F.I.R., statement of the injured Krishna Bhan Singh is stated to have been recorded by the investigating officer, wherein on the basis of prior enmity, name of the applicant has been taken by him.
5. It is also submitted that applicant was not having any concern with the alleged crime and it appears that the crime has been committed by some other person and on the basis of prior enmity, applicant has been falsely implicated in this case. It is further submitted that the applicant is a resident of Aligarh and is employed at Delhi and he was arrested from Delhi, but has been wrongly shown to have been arrested from Colonelganj, Gonda and recovery of iron rod on the pointing of the applicant could also not be believed for want of independent public witnesses and moreover the injury, which has been sustained by the deceased or the injured, may not be caused by the weapon (iron rod), which is shown to have been recovered on the pointing of the applicant.

6. It is next submitted that the applicant is in jail in this case since 11.09.2022 without any criminal history and the charge sheet in this case has already been filed and there is no apprehension that after being released on bail he may flee from the course of law or may otherwise misuse the liberty.

7. Learned A.G.A. for the State vehemently opposes the prayer of bail of the applicant on the ground that though the applicant was not named in the F.I.R., but statement of the injured has been recorded on the next day i.e. 08.09.2022 and having regard to the nature of injuries sustained by him, it is not expected that he would be in a position to inform about the incident to anyone and when he regain his consciousness, he immediately given his statement, wherein the applicant has been implicated. Oral evidence is in line of medical evidence and thus having regard to the injuries sustained by the deceased as well as injured, applicant is not entitled to be released on bail.

8. Having heard learned counsel for the parties and having perused the record, it appears to be an admitted fact that the applicant was not named in the F.I.R. The F.I.R. is admittedly lodged by the brother of the deceased, who is not an eye witness. The injured Krishna Bhan Singh has sustained 2 injuries of the nature of lacerated wounds on his head and face and at the time of medical examination, he was vomiting and his injury no.1 and 2 were kept under observation. The injured was also subjected to C.T. of his head, wherein fracture in all the walls of orbit on right side as well as fracture in all walls of maxillary sinus and also fracture in pterygoid plates and fracture at different places of face was found. In the C.T. report placed at page no.56 of the paper book lamina papyracea has also been shown fractured. The deceased is also shown to have sustained one incised wound over left side of his head and the bone beneath which was also found cut and as per opinion of the Doctor, his death has been caused due to shock and hemorrhage as a result of ante mortem injury. The star witness of this crime namely injured Krishna Bhan Singh, whose statement has been recorded on 08.09.2022 (next day of the lodging of the F.I.R.), has specifically identified the applicant as the person, who has committed the crime. After his arrest, an iron rod is also shown to have been recovered on his pointing out and prima facie there is no contradiction so far as the medical evidence and oral evidence is concerned.

9. Thus having regard to all the facts and circumstances of the case and for the reasons mentioned herein-before, I do not find any good ground to release the applicant on bail. Thus the bail application moved on behalf of applicant - **Rohitash Alias Rohit Singh** is hereby **rejected**.

10. However, the trial court is directed to proceed with the trial and make all out efforts to conclude the same at the earliest without granting soft adjournment to either party and if all the witnesses of fact are not examined within six months from today, the applicant may renew his prayer for bail before this Court.

11. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression of this Court on the merits of the case.

12. Office is directed to immediately send a copy of the instant order to the trial court concerned through the Sessions Judge concerned for strict compliance.

Order Date :- 28.10.2023

Anupam S/-