

Court No. - 8

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1636 of 2023

Applicant :- Mahendra Yadav

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Civil Sectr. Lko.

Counsel for Applicant :- Vijay Kumar Verma, Anil Kumar Tripathi, Gyan Sagar Gupta, Vinod Kumar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh, J.

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

2. This is 4th bail application. The present bail application under Section 439 Cr.P.C. has been filed by the applicant seeking bail in FIR No.153 of 2019 under Sections 147, 302, 34, 323, 504 IPC, Police Station Jaisinghpur, District Sultanpur.

3. As per the allegation in the FIR on 20.03.2019 at around 7 P.M. the accused-applicant and other co-accused had abused and assaulted the widowed mother of the complainant and also assaulted the deceased Ram Achal, aged around 75 years with lathi, danda, kicks and fists, as a result of assault, Ram Achal sustained injuries. He was taken to C.H.C., Jaisinghpur Block for treatment where he was referred to District Hospital Sultanpur and during the treatment Ram Achal died.

4. Post mortem would disclose following antemortem injuries:-

"(i) Abrasion of 2 cm x 1 cm just behind left eye;

(ii) Contusion of 4 cm x 4 cm present over right molar emine of face."

5. Learned counsel appearing for the accused-applicant submits that only one injury is vital and there was no intention to cause death. If the accused-applicant and other accused have intention to cause death, there would have several vital injuries but the Post Mortem report would disclose that only one vital injury was caused to the deceased, who was 75 years of age. Three other co-accused have been enlarged on bail by this Court. The accused-applicant has been in jail since 23.03.2029.

6. Sri Brijendra Vikram Singh, learned A.G.A. opposes the bail application and submits that the accused-applicant is the main accused who has caused the vital injury on the body of the deceased. His role is different from three other accused, who have been enlarged on bail. The complainant has been examined in the Court but he is not an eye witness.

7. Considering the facts and circumstances of the case, long incarceration of the

accused-applicant in jail for more than 4 years, perusing the record and also considering the nature of allegations, arguments advanced by the learned counsel for the parties and, without expressing any opinion on the merit of the case, I find it to be a fit case for granting bail.

8. Let applicant Mahendra Yadav be released on bail in the aforesaid case on his furnishing a personal bond and two sureties of the like amount to the satisfaction of the Magistrate/Court concerned, subject to following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates 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.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) 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. is issued and the 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 of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) 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.

Order Date :- 26.5.2023
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