

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3207 of 2023

Applicant :- Surendra Kumar Singh Alias Chhotu

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

Counsel for Applicant :- Govind Singh Bot (Govind Ram)

Counsel for Opposite Party :- G.A.,Rishabh Srivastava

Hon'ble Mohd. Faiz Alam Khan,J.

1. Heard Mr. Govind Singh Bot, learned counsel for the accused-applicant, learned A.G.A. for the State, as well as Mr. Rishabh Srivastava, learned counsel for the complainant/informant, and perused the record.

Supplementary counter affidavit, filed on behalf of the informant/complainant, is taken on record.

2. This bail application has been moved by the accused/applicant- **Surendra Kumar Singh alias Chhotu** for grant of bail in Case Crime No.0139 of 2022, under Sections 302 and 341 IPC lodged a Police Station Colonelganj, District Gonda, during trial.

3. Learned counsel for the accused-applicant, while pressing the bail application, submits that it is case of false implication and the story, as cooked up by the informant, could not be believed on the touchstone of the probability. Elaborating further, it is submitted that no prudent person would believe that in the light of torches the informant and other prosecution witnesses would be able to identify only two accused persons and will not recognize/identify the other two accused persons and, therefore, there is a lacunae and suspicion over the whole prosecution story. It is also submitted that the recovery of a knife, shown on pointing of the applicant, could also not be believed as it is stated in the statements of the prosecution witnesses that while running away the applicant had thrown the knife, however, the same is shown to have been recovered by digging it out and, therefore, the same could not be believed. It is also submitted that in the inquest report the reference of the accused persons have been made only by mentioning 'Arjun Kumar Singh and others' and name of other accused persons has not been mentioned therein, which is casting a cloud of suspicion over the whole prosecution story. It is also submitted that torches, which were the only source of light, have not been examined or

collected by the investigating officer, thus, the whole story, as cooked up by the prosecution, is in the realm of hypothesis, suspicion and apprehension and there is no concrete material or evidence collected by the investigating officer. It is further submitted that the applicant is languishing in jail in this case since 06.05.2022 and he is not having any previous criminal history 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.

4. Learned A.G.A. as well as learned counsel for the complainant/informant oppose the prayer of bail of the applicant on the ground that it is an incident which has been witnessed by the informant/complainant, Abhai Kumar Singh and three others, namely, Deepak Singh, Anil Kumar and Ram Pratap Singh and they all in one voice have stated that they have seen the two accused persons assaulting the deceased and their testimonies, *prima facie*, are corroborated by the medical evidence and the recovery of knife has also been made on pointing of the applicant after a disclosure statement given by him, thus, there is sufficient material for conviction of the applicant and, therefore, he is not entitled to be released on bail.

5. Perusal of record, in the background of submissions made by the learned counsel for the parties, would reveal that in the FIR which has been lodged by the informant, Abhai Kumar Singh the role of assault with knife has been attributed to the applicant, his brother and two unknown persons. During the course of investigation, the involvement of other two persons was not found and charge-sheet could only be filed against the applicant and his brother. Postmortem report of the deceased would evidently demonstrate that he sustained one stab wound on left side of the chest along with another incised wound over medial aspect of left thumb and abraded contusion over right side of neck and the death is shown to have occurred due to shock and hemorrhage as a result of antemortem injuries. The recovery of knife is also shown to have been made on pointing of the applicant and knife has been found blood-stained. The four eye-witnesses, including informant, have assigned the role of assault with knife to the applicant and co-accused, Arvind Kumar Singh. The submissions, which have been made by the learned counsel for the applicant, at this juncture are not sufficient enough to cast any doubt on the case of the prosecution and having regard to the statements of the four eye-witnesses, including the informant, and keeping in view the corroboration of the medical evidence with the oral evidence and also the recovery of blood-stained knife on pointing of the applicant, in the considered opinion of this Court, the facility of bail may not be extended to the applicant.

6. In result, the bail application, moved on behalf of the applicant, is hereby **rejected**. However, the trial Court is directed to expedite the trial, having regard to the provisions contained under Section 309 CrPC and, make all endeavour to conclude the same within a period of one year from today and, if within the period mentioned herein before, the trial is not concluded or the facts witnesses are not examined, whichever, is earlier, the applicant may again approach this Court to revive his prayer for bail.

7. Let a copy of this order be transmitted to the trial Court concerned through the Sessions Judge concerned immediately for compliance.

[Mohd. Faiz Alam Khan,J.]

Order Date :- 9.11.2023

MVS/-