

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3552 of 2022

Applicant :- Dhodhe Lal

Opposite Party :- State Of U.P. Through Secretary Home

Counsel for Applicant :- Rizwanul Haque Ansari, Bhoopal Singh

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh, J.

1. Heard learned counsel for the applicant, Shri Rao Narain Singh, learned A.G.A. for the State and perused the record.

2. The present application under Section 439 Cr.P.C. has been filed on behalf of the accused-applicant in Case Crime No.504 of 2021 under Section 304 I.P.C., Police Station-Motipur, District-Bahraich, with prayer to enlarge him on bail.

3. As per the allegations in the F.I.R., the victim, the father of the complainant aged around 70 years was assaulted by the accused-applicant over some dispute on 16/17.10.2021. The victim was taken to the Hospital, however, during the course of treatment, he died. The charge-sheet has already been filed against the accused-applicant. The postmortem report would suggest Antemortem Injuries which are as under:-

- (1) L.W.3x2cm present over forehead, 4cm from (R) eye.
 - (2) L.W. 9x2cm present over (R) posterior region 7cm from (R) eyebrow.
 - (3) L.W. 4x10cm present on (R) temporal region 3cm from (R) ear pinna under
 - (4) Abraded contusion 3x20cm on (R) mid of forearm.
 - (5) Contusion 4x3cm posterior side of mid forearm.
 - (6) Contusion 8x5cm posterior aspect of lower arm.
 - (7) Abraded contusion 8x6cm (L) upper arm.
- (immediate cause)-Coma
(Due to)-Antemortem Head Injury.

4. The cause of death was opined to be head injury. The accused-applicant is in jail since 17.10.2021 and there is no other criminal antecedent of the accused-applicant. It appears that because of sudden quarrel, the incident took place and therefore, the charge-sheet has been filed only under Section 304 I.P.C.

5. Considering the long incarceration of the accused-applicant pending trial and the nature of offence, this Court deems it appropriate to enlarge/release the accused-applicant on bail.

6. In view thereof, the present application is **allowed**.

7. Let the applicant-**Dhodhe Lal**, who is involved in aforementioned case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the 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 date 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 IPC.

(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., may be issued and if 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 IPC.

(iv) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) 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.

8. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

(Dinesh Kumar Singh, J.)

Order Date :- 20.6.2023

Piyush/-