

Neutral Citation No. - 2023:AHC-LKO:76887

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 4122 of 2023

Applicant :- Rajendra Verma

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Deptt.
Lko.

Counsel for Applicant :- Ishan Baghel, Sajeet Singh

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard Sri I. B. Singh, learned Senior Advocate, assisted by Sri Sajeet Singh and Ishan Baghel learned counsel for the applicant as well as Sri G.D. Bhatt, learned AGA for State. Also perused record.
2. This first bail application has been filed by the applicant in Case Crime No.381 of 2020 under Section 147, 148, 149, 302 IPC, PS Para, district Lucknow.
3. It has been submitted by the learned counsel for the applicant that FIR was lodged by the father of deceased stating therein that his son Aasu Yadav was named as accused in the case of murder of brother of the present applicant Rajendra Verma and was granted bail prior to one month. He has further mentioned in the FIR that on 17.7.2020 at around 1.30 p.m., his son was going through motorcycle along with his mother for medical treatment at Chandroday Nagar Mor (turn). He has further mentioned in the FIR that he was also going on the other motorcycle along with the son and as soon as they crossed the Railway Crossing, the applicant, Shivam son of unknown and three other unknown persons exhorted and fired at his son with intention to kill him. His son left motorcycle and ran towards Chandroday Nagar and the applicant

including other co-accused chased him. His son was surrounded by them in the Lane situated in Chandroday Nagar and they fired indiscriminately. His son fell down on the ground and died.

4. It has been submitted by the learned counsel for the applicant that the informant is not the eyewitness of incident and it appears that he had lodged anti-time FIR because no attempt was made by the complainant and his wife to intervene in the alleged incident and they did not try to save their son. No blood was found on the clothes of informant or his wife. Thus, it is clear that they were not present.
5. It has been submitted by the learned counsel for the applicant that body was found at Rani Laxmi Bai Hospital and the inquest proceeding was performed in the hospital while as per FIR, the body was lying on the spot. The deceased was brought to the Hospital in injured state by the police. He has further submitted that no independent public witness has been mentioned in the FIR though, the incident had taken place at busy road and recovery of alleged countrymade pistol and cartridges alleged to have been made from the applicant, is totally false and fabricated. It has been further submitted that general allegation of assault is levelled in the FIR against two known and three unknown persons without stating any specific overt act or specific role of accused persons.
6. Learned counsel for the applicant has further submitted that in the examination-in-chief, the complainant has changed his version and he has stated that the accused were sitting in the car and fired at his son whereas in the FIR, there is no mention of the fact that the accused were sitting in a car. Learned counsel for the applicant has further mentioned that in the statement of PW-1, deposed in the cross-examination that the local person might have given information to the police and he had not gone to Medical College. He has further deposed that he has not seen the dead body of his son

in the Hospital. It has been further submitted by the learned counsel for the applicant that the inquest report indicates that the complainant is the eyewitness of the inquest but he has deposed before the Court that his signature was obtained by the police and he had not taken the dead body to the Medical College. He has further deposed that till the inquest proceedings, whether the case was registered or not, the same was not in his knowledge. Learned counsel for the applicant has further submitted that the statements of PW-1 father of deceased and PW-2 mother of deceased are contradictory, therefore, the applicant is entitled for bail.

7. On the other hand, Sri G. D. Bhatt, learned AGA has opposed the bail and has submitted that it is a broad day light murder. The complainant is the father of deceased who is eyewitness. The statements of complainant as well as the mother who was witness of incident, have been recorded and they have supported the prosecution case. He has further submitted that the deceased received total five injuries out of which, four injuries are firearm injuries of entry and out of this four firearm injuries, three injuries were exit wound corresponding with the entry wound. The fifth injury was lacerated wound of right side of head of deceased and doctor has given his opinion that deceased died due to coma and anti-mortem head injuries. It has been submitted that the applicant has been assigned specific role of firing and FSL report has also come on record. He has submitted that the weapon and cartridges were recovered from the possession of the applicant and the FSL report indicates that .32 bore cartridges is matched with the weapon which is alleged to be used by the applicant. It has been further submitted by the learned AGA that the statement of PW-1 father, PW-2 mother who are eyewitness, indicate that they have supported the prosecution case and minor contradictions as pointed out by the learned counsel for the applicant, cannot be looked into at this

juncture because it is a broad day light murder. It has been further submitted by the learned AGA that in FIR as well as in cross-examination of PW-1 it is mentioned that deceased was named in the murder of brother of the applicant and strong motive for the applicant is there to commit the crime and the same fact has been corroborated in the statement of PW-2.

8. Considering the over all facts and circumstances of the case and the argument that the murder of deceased has been committed in broad day light, the argument that PW-1 and PW-2 are the witnesses of the incident have supported the prosecution case before the Trial Court, the argument that there is strong motive for the applicant in commission of crime, it is not a fit case for bail.
9. The bail application is accordingly rejected. The Trial Court is directed to conclude the trial within one year without being influenced in any manner by the observations made hereinabove.

Order Date :- 24.11.2023

Rajneesh JR-PS)