

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 4253 of 2023

Applicant :- Indra Kumar Singh @ Indal

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

Counsel for Applicant :- Paritosh Shukla, Sukh Deo Singh, Suresh Chandra Srivastava, Vaibhav Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Rejoinder affidavit filed by the applicant is taken on record.
2. Heard Shri Suresh Chandra Srivastava, learned counsel for the applicant, Shri MVS Chauhan, learned AGA for the State and perused the record.
3. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.295 of 2022 under Sections 304, 506 IPC., Police Station Kotwali Dehat, District Sultanpur.
4. It has been submitted by learned counsel for the applicant that in the FIR, general allegations has been levelled against four persons but in the statement under section 161 Cr.P.C. of Rijwan Ahmad (Pradhan), specific role has been assigned to co-accused Sumitra and Arun. Learned counsel has submitted that co-accused Sumitra has been granted bail by this Court in which a detail order has been passed today i.e. on 05.12.2023 and the case of the applicant is standing on better footing.
5. Learned counsel submitted that in the statements of Rizwan Ahmad (Pradhan) as well as Safi-ur- Rahman and Vandana, nothing adverse has been found against the applicant and there is no evidence as to how he was involved in the commission of crime. It is simply mentioned in the FIR that Rs.2.5 lac was advanced by the deceased to the applicant. General allegations of assault has been made. The deceased was son-in-law of the applicant and all the witness have stated in 161 Cr.P.C. that he had come to the house of the applicant in drunken state of mind and there was altercation between the deceased and the family members of the applicant and assault was made to him due to which he received injuries and he died.
6. Learned counsel submitted that in the statement of witnesses, stick has been shown in the hands of co-accused Sumitra and Arun. Thus, case of the applicant stands on better footing to that of Sumitra Kori, who has been granted bail in Criminal Misc. Bail Application No.12708 of 2023. Learned counsel also submitted that

co-accused Vandana has been granted bail by coordinate bench of this Court in Criminal Misc. Bail Application No.746 of 2023 dated 05.07.2023. The applicant has no criminal history and is languishing in jail since 25.06.2022.

7. Learned AGA has opposed the prayer for bail but could not dispute the fact that co-accused Sumitra Kori and Vandana have been granted bail by this Court.

8. Without expressing any opinion on the merits of the case, after hearing learned counsel for the parties and considering the argument that co-accused Sumitra Kori and Vandana have been granted bail and case of the applicant stands on better footing than co-accused; argument that general allegation of assault but no specific role has been assigned to the applicant, in my opinion, it is a fit case for grant of bail.

9. Let the applicant, **Indra Kumar Singh @ Indal** be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the 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.

10. It is made clear that the observations made in this order are limited to the purpose of determination of this

bail application and will in no way be construed as an expression on the merits of the case. The Trial Court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 5.12.2023

Pks