

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 5291 of 2023

Applicant :- Tahal Singh Alias Tahalu

Opposite Party :- The State Of U.P. Thru. Prin. Secy. Home Dpett. Civil Sectt. Lko.

Counsel for Applicant :- Dev Prakash Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Heard learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.
2. This bail application has been moved by the accused/applicant- **Tahal Singh Alias Tahalu** for grant of bail, in Case Crime No.610 of 2021, under Sections 302, 201 I.P.C., Police Station Mohammadi, District Kheri, during trial.
3. Learned counsel for the accused-applicant while pressing the bail application submits that the applicant has been falsely implicated in this case and he has not committed any offence as claimed by the prosecution.
4. It is further submitted that F.I.R. of this case has been lodged by Ravi Singh Yadav (brother of the deceased) on 16.11.2021 alleging therein that on 11.11.2021 at about 07:00am. the deceased had gone to Jhala of one Sukhvinder, but did not return back and on being inquired, it was known that the deceased was taken by some unknown person on his motorcycle and it was apprehended that on 15.11.2021 at about 06:00pm. the named accused persons namely Sona and Kulvinder have caused the death of the deceased and his dead body has been found in an agricultural field of one Ram Dev.
5. It is vehemently submitted on behalf of the applicant that the applicant was not in the picture till recording of the statement of informant under Section 161 Cr.P.C. and thereafter without there being any basis, statement of one Sukhvinder Singh (Pradhan) was recorded, wherein it is shown that the deceased was in a habit of drinking liquor and was an associate of the applicant. Thereafter the applicant is shown to have been arrested and confessed his guilt and also that the weapon of assault namely *darati* is shown to have been recovered on his pointing.

6. Highlighting the above facts, it is vehemently submitted that the motive, which has been assigned to the applicant for commission of offence, is very weak and appears to have been crafted while there was no relation of the deceased with the wife of the applicant. It is further submitted that in the confessional statement of the applicant, it is shown that the deceased was first electrocuted and when he became unconscious, thereafter he was strangled, however, the postmortem report of the deceased would reveal that he did not sustain any injury, which may be related to the electric current.

7. It is also submitted that though the *darati* is shown to have been recovered on the pointing of the applicant but still no forensic report with regard to the same has been obtained. It is next submitted that applicant is in jail in this case since 22.11.2021 and till now only one prosecution witness has been testified before the trial court and having regard to the pace with which the trial is going on before the trial court, the same is not expected to conclude in near future. Applicant is not having any criminal history, charge-sheet in this case has already been submitted and there is no apprehension that after being released on bail the applicant may flee from the course of law or may otherwise misuse the liberty.

8. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and a *darati* is shown to have been recovered on his pointing and having regard to the material/evidence available against the applicant, he is not entitled to be released on bail, but could not controvert the other factual submissions made by learned counsel for the applicant.

9. Having heard learned counsel for the parties and having perused the record, it is evident that the only evidence, which is available against the applicant, is his confessional statement and the recovery of *darati* on his pointing, which is also found to be bloodstained, however, even after two years of detention of the applicant in prison, Forensic report with regard to the contents of the *darati* has not been prepared. In the confessional statement of the applicant, it is stated that at first the deceased was electrocuted and when he became unconscious, he was strangled. Admittedly there is no injury found on the person of the deceased, which may be related to any electric shock or electrocution. It is in this background submitted that the story as claimed to have been investigated by the investigating officer is not sound. The case of the prosecution rests on circumstantial evidence. Charge-sheet in this case has already been filed. Applicant is in jail in this case since 22.11.2021 without any previous criminal history. The presence of the applicant could

be secured before the trial court by placing adequate conditions.

10. Having regard to the overall facts and circumstances of the case and keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus **allowed**.

11. Let the accused/applicant- **Tahal Singh Alias Tahalu** involved in above-mentioned case, be released on bail on his furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

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

13. Identity, status and residence proof of the applicant and sureties be verified by the Court concerned before the bonds are accepted.

14. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression of this Court on the merits of the case.

Order Date :- 11.12.2023

Anupam S/-