

Court No. - 8

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8511 of 2023

Applicant :- Khan Zafar Alias Zafar Supari

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

Counsel for Applicant :- Santosh Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh,J.

Heard learned counsel appearing for the accused-applicant and learned A.G.A. for the State.

This is second bail application which has been filed seeking bail in FIR No.129 of 2018, under Sections 147, 148, 149, 302, 307, 120B, 34, 427 IPC, 7 Criminal Law Amendment, Police Station Hanswar, District Ambedkar Nagar.

First bail application has been rejected by this Court vide order dated 07.05.2022 passed in Bail No.1032 of 2022 by following order:-

"1. Heard learned counsel for the applicant, Jai Prakash Rai, learned A.G.A. for the State and perused the record.

2. The present bail application under Section 439 Cr.P.C. has been filed by the applicant seeking bail in FIR No.129 of 2018, under Sections 147, 148, 149, 302, 307, 120B, 34, 427 IPC, 7 Criminal Law Amendment, Police Station Hanswar, District Ambedkar Nagar.

3. Allegations in the FIR are that when the father of the complainant, the complainant, driver-Shubneet Yadav, Dilshad @ Hussain Muhammad, Naushad and Jaiki were going by their Fortuner vehicle being Registration No.32DH 2424, to attend a case in district court lodged by the father of the complainant against Khan Mubarak and others under Section 307 IPC, as soon as the car reached to Heerapur Bazar near durga puja pandal and it slowed down due to a breaker, 8-9 unknown persons came in three motorcycles and fired indiscriminatory at the father of the complainant who was sitting in front seat along with driver and killed father and the driver.

4. Post mortem of the two victims would suggest following ante mortem injuries received by them respectively:-

"Deceased Jurgan Mehndi

(i) Entry wound of 1 cm present with bleeding on left side of clavicle and parietal bone;

(ii) Entry wound of .5 cm left side of chest with bleeding;

(iii) Entry wound of 1 cm on left side of chest lateral of chest at level of 6th rib; (iv) Entry wound of 1 cm on ant. Aspect of right arm;

(v) Entry wound of .5 cm on ant. 4th wall at umbilicus with bleeding and inverted margins; (vi) Entry wound of .5 cm on ant. abd all 3 cm right;

(vii) Entry wound of 1 cm on lateral aspect of left chin from and lacerated margins;

(viii) Exit wound of 1 cm of lateral aspect; and

(ix) Entry wound on anterior aspect with bleeding.

Deceased-Shubh Jeet Yadav:-

(i) Entry wound on occipital region of left side of skull with inverted margins right arm;

(ii) Entry wound on eyebrow of right eye of .5 cm with balck;

(iii) Exit wound with inverted margins left side ..;

(iv)Exit wound of 1. cm x 4 cm left side of upper face;

(v) 3 wound on right elbow of 2 cm diametric with associated bleeding."

5. It is alleged on behalf of the State that the accused-applicant is a member of a dreaded gang. Criminal history of the accused-applicant has been mentioned in the counter affidavit filed on behalf of the State, which is as under:-

(i) Case Crime No.117 of 1999 under Section 4/25 Arms Act, Police Station Hanswar, District Ambedkar Nagar;

(ii) Case Crime No.128 of 1999 under Sections 363, 302, 201 IPC, Police Station Hanswar, District Ambedkar Nagar;

(iii) Case Crime No.18 of 2003 under Section 110 Cr.P.C., Police Station Hanswar, District Ambedkar Nagar;

(iv) NCR No.53 of 2003 under Sections 323, 504, 506 IPC, Police Station Hanswar, District Ambedkar Nagar;

(v) Case Crime No.17 of 2004 under Section 110 Cr.P.C., Police Station Hanswar, District Ambedkar Nagar;

(vi) Case Crime No.85 of 2004 under Sections 147, 148, 149, 307, 427 IPC, 3(1) U.P. Gangsters Act, Police Station Hanswar, District Ambedkar Nagar;

(vii) Case Crime No.122 of 2005 under Sections 3/4 Goonda Act, Police Station Hanswar, District Ambedkar Nagar;

(viii) Case Crime No.76 of 2002 under Section 110 Cr.P.C., Police Station Hanswar, District Ambedkar Nagar;

(ix) Case Crime No.107 of 2006 under Sections 386, 506, 120B IPC, Police Station Civil Lines, District Allahabad;

(x) Case Crime No.538 of 2006 under Sections 302, 201, 34, 37 IPC, Police Station D.A.Nagar Andheri, District Mumbai;

(xi) Case Crime No.545 of 2006 under Sections 307/34 IPC, 3/25 Arms Act, Police Station D.A.Nagar Andheri, District Mumbai;

(xii) Case Crime No.222 of 2007 under Sections 307 IPC, Police Station Kolawa, District Mumbai;

(xiii) Case Crime No.26 of 2010 under Sections 302, 307, 34 IPC, 3/27 Arms Act, Police Station J.J. Marg, District Mumbai;

(xiv) Case Crime No.122 of 2017 under Sections 364, 342, 323, 504, 506 IPC; and

(xv) Case Crime No.195 of 2019 under Sections 302, 120B IPC, Police Station Hanswar, District Ambedkar Nagar;

6. This is not a solitary case of offence under Section 302 IPC but the accused-applicant has been previously involved in as many as 4 such other cases committed by him in different parts of the country. Every time the accused-applicant indulged in heinous offences was enlarged on bail.

7. The incident took place during broad day light in a busy market in a most dare devil manner and, therefore, looking at the criminal history of the accused-applicant of several heinous offences in U.P. and Maharashtra, this Court does not consider it to be a fit case for enlarging the accused-applicant on bail at this stage. This bail application is thus, rejected."

I do not find any change circumstance to enlarge the accused-applicant on bail at this stage. This bail application is rejected.

(Dinesh Kumar Singh, J.)

Order Date :- 7.7.2023
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