

Court No. - 8

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10710 of 2022

Applicant :- Surendra Alias Lala

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

Counsel for Applicant :- Bhanu Pratap Singh, Jai Pal Singh, Yaduvansh Mani Singh Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh, J.

1. Heard Mr. Jai Pal Singh, learned counsel for the accused-applicant as well as Mr. Brijendra Vikram Singh, learned Additional Government Advocate, ***on this 2nd application for bail*** and gone through the entire record.
2. This first application for bail was rejected by this Court vide order dated 25.03.2022 passed in Criminal Misc. Bail Application No. 500 of 2022.
3. By means of this application under Section 439 CrPC, the accused-applicant seeks bail in FIR No. 0279 of 2020, under Sections 302, 301, 506 and 34 IPC lodged at Police Station Dalmau, District Raebareli.
4. As per the allegations in the FIR, the accused-applicant and other co-accused waylaid the deceased, who was coming back from the market with his son, aged about 14 years, and assaulted him with axe, lathi, gandas. As a result of injuries sustained by the deceased, he died on the spot. At the time of postmortem examination as many as five injuries were noticed.
5. Learned counsel for the accused-applicant submits that all the witnesses of fact, including the alleged eye-witness, have been examined in the Court; the accused-applicant has been languishing in jail for almost three years; trial has progressed; the accused-applicant will not make any effort to recall witnesses of fact or any other witness examined in the Court by moving application under Section 311 CrPC.
6. The learned Additional Government Advocate has opposed the bail.
7. However, considering the fact that the trial has progressed, the accused-applicant will cooperate in the trial and will not

move any application under Section 311 CrPC to recall witnesses of fact or any other witness examined in the Court, this Court deems it appropriate to enlarge the accused-applicant on bail.

8. Let applicant- **Surendra alias Lala**, accused of above-mentioned FIR/crime number, be released on bail on **his** furnishing a personal bond and two local and reliable sureties each in the like amount to the satisfaction of the Court concerned with the following conditions, which are imposed in the interest of justice:-

*(i) the applicant(s) 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(s) 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(s) misuse(s) the liberty of bail and in order to secure **his** presence proclamation under Section 82 Cr.P.C. is issued and the applicant(s) fail(s) 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; and*

*(iv) the applicant(s) 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 default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of **his** bail and proceed against **him** in accordance with law.*

[D.K. SINGH, J]

Order Date :- 25.5.2023

MVS/-