

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10075 of 2023

Applicant :- Santosh Alias Santosh Bedia

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

Counsel for Applicant :- Piyush Tripathi, Arpit Dwivedi, Manoj Kumar Mishra

Counsel for Opposite Party :- G.A., Gauri Suwan Pandey, Sandeep Kumar Srivastava

Hon'ble Brij Raj Singh, J.

1. Case called out. Learned counsel for complainant is not present. However, Shri Ashish Seth, Advocate holding brief of Shri Gauri Suwan Pandey, is present before the Court.

2. Heard Shri Anubhav Awasthi, Advocate holding brief of Shri Manoj Kumar Mishra, learned counsel for the accused-applicant, Shri Ashish Seth, Advocate holding brief of Shri Gauri Suwan Pandey, learned counsel for complainant as well as Shri Diwakar Singh, learned A.G.A. for the State and perused the record.

3. This bail application has been filed seeking release of the accused/applicant **Santosh Alias Santosh Bedia** on bail, who is involved in Case Crime No. 0047 of 2023 under Sections 323, 504, 506, 452, 302, 392 I.P.C, Police Station Maalipur, District Ambedkar Nagar.

4. Learned counsel for the applicant submitted that the First Information Report was lodged by the complainant on 12.03.2023 and three persons have been named in the F.I.R. and the applicant is not named. The F.I.R indicates that due to property dispute, three named persons entered into the house of the complainant and assaulted the deceased and his wife Arti Singh. He further submitted that the statement of the complainant was recorded under Section 161 Cr.P.C. on 12.03.2023 and the applicant was not named by him. However, in the supplementary statement on 28.03.2023, the applicant was named along with three other co-accused mentioning therein that he got information from reliable sources that the applicant was the person who was also involved in commission of crime. Learned counsel for applicant further submitted that after 14 days from the date of incident, the version was improved and the applicant was also implicated in the said case along with other three co-accused. Learned counsel for applicant has further drawn attention of the Court towards the statement of injured witness Arti Singh (wife of deceased) recorded under Section 161 Cr.P.C., wherein she has specifically named the three co-accused persons who

have been named in the F.I.R. It is further stated that she has not named the present applicant and only three co-accused have been assigned role of assaulting the deceased and no fourth person has been assigned any role. Then, later on, the name of the applicant has surfaced in the supplementary statement of complainant dated 28.03.2023.

5. Learned counsel for applicant further stated that the post-mortem report of the deceased indicates only one injury on the top and back part of head of deceased and the said injury has not been assigned to the applicant and only general role of assault has been assigned to the three named co-accused and one unknown person. He further stated that there is no previous criminal history of the applicant and he is languishing in jail since 30.04.2023.

6. Learned A.G.A has opposed the prayer of bail of the applicant and has submitted that in the supplementary statement of complainant dated 28.03.2023, and also in the statements of witnesses namely Rohit Singh, Sunil Kumar Singh and Ankit Singh, the name of the applicant has come into light. He further submitted that although the case of the applicant is distinguishable from that of the co-accused, there is allegation of assault against the applicant, therefore, bail of the applicant is liable to be rejected.

7. Learned counsel for complainant has adopted the argument of learned A.G.A for the State and has submitted that the bail of applicant is liable to be rejected.

8. Considering the facts and circumstances of the case, perusing the record, also considering the nature of allegations, arguments advanced by the learned counsel for the parties, the argument that the applicant is not named in the F.I.R., the argument that after 14 days, the name of the applicant has surfaced in the supplementary statement of complainant dated 28.03.2023, at a belated stage, the argument that the injured witness Arti Singh (wife of deceased) has not named the applicant in her statement, rather she has named three persons, the argument that single blow has been caused on the head of the deceased and the same is not specified to the applicant, the argument that case of the applicant is distinguishable from other co-accused, I find it to be a fit case for grant of bail.

9. Accordingly, the bail application is **allowed**.

10. Let the applicant **Santosh Alias Santosh Bedia** 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 her 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.

11. 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 :- 13.10.2023
DiVYa