

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10423 of 2023

Applicant :- Samarjeet Alias Amarjeet

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy./
Prin Secy. (Home) Civil Sectt. Lko

Counsel for Applicant :- Rakesh Kumar
Chaudhary, Virendra Singh

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard Shri Rakesh Kumar Chaudhary, learned counsel for the applicant, Shri Vishwas Saraswat, learned AGA for the State and perused the record.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.118 of 2023, under Sections 302, 307, 506 IPC., Police Station Sushant Golf City, District Lucknow.

3. Learned counsel for the applicant submitted that wife of the deceased lodged report wherein she has mentioned that her husband had gone along with his friend Ramjeet to attend the marriage and while coming back, they were assaulted by the applicant and co-accused Ram Sewak due to which his husband died on the spot and his friend was injured. It is further submitted that from perusal of FIR, it is clear that complainant is not an eye witness rather she has mentioned that Ramjeet is the injured who was sitting along with the deceased on the motorcycle. The statement of injured Ramjeet has been recorded and he has specifically stated that he could not identify anybody due to extra light.

4. Learned counsel submitted that applicant, deceased and the injured witness belonged to the same village and it is strange that applicant was not identified by the injured. He has further submitted that the statement of Pannalal has also been recorded by the police under section 161 Cr.P.C. and he has not also named the applicant. Learned counsel submitted that there is no direct or clinching evidence which indicates that the applicant was involved in the commission of crime and only on the basis of surmises and conjectures, the case has been lodged against the applicant. Learned counsel submitted that the criminal history of the applicant has been explained in para 7 of the rejoinder affidavit. The applicant is in jail since 06.03.2023.

5. Learned AGA opposed the prayer for bail and submitted that motive has been assigned and it appears that the deceased had been done to death by the applicant and other co-accused therefore, the applicant is not entitled to be released on bail.

6. Without expressing any opinion on the merits of the case and after hearing learned counsel for the parties and looking to the argument that the injured witness has not named the applicant, argument that the complainant is not the eye witness and the argument of false implication, I find it to be a fit case for grant of bail.

7. Let the applicant, **Samarjeet @ Amarjeet** 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.

8. 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 :- 16.10.2023

Pks