

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10686 of 2023

Applicant :- Suraj Rawat

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

Counsel for Applicant :- Vinod Kumar Yadav, Akhilendra Pratap Singh, Atul Verma

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Shri Atul Verma, 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- **Suraj Rawat** for grant of bail, in Case Crime No. 386/2023, under Sections 302, 201, 307, 120-B, 34 IPC Police Station P.G.I., District Lucknow, during trial.

3. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. The applicant was not named in the FIR, however, during the course of investigation the name of the applicant surfaced in the confessional statement of other co-accused persons and the story which has been stated by the co-accused persons in their confessional statement is highly improbable and could not be believed on the touch stone of probability.

4. Elaborating further, it is submitted that co-accused persons have confessed, while they were in the custody of the police, that the co-accused Ashish, Rohit and Manish had hatched a conspiracy to eliminate the deceased as Amit and Ashish were Directors in a Company and a dispute had arisen between them with regard to the payment of money and co-accused Rohit for furtherance of the said conspiracy has contacted the applicant and also provided a motorcycle while co-accused Manish has undertaken the job of firing and has also brought a country made pistol and in pursuance of the said conspiracy the motorcycle at the relevant time was driven by the applicant and it was co-accused Manish who had fired gun shot towards the deceased - Amit resulting in his death.

5. It is vehemently submitted that apart from the confessional statement of the co-accused persons and also of the applicant

there is no materiel or evidence which may connect the applicant with crime.

6. It is vehemently submitted that in the statement of the injured witness Atul Kumar it is stated that though he had not seen the assailant who was riding on motorcycle, he has clearly seen an 'Apache' motorcycle, of blue colour on which the assailants were riding. It is submitted that the recovery of motorcycle may not be of any consequence in absence of any registration number of the same as the 'Apache' motorcycle of blue colour would be in bulk in the city of Lucknow.

7. It is also highlighted that the role of firing has specifically been assigned to co-accused Manish and he is the only person who was having motive along with his brother Ashish Yadav, while the applicant was not having any interest in the commission of crime and having regard to the fact that the applicant is having criminal history of only one case i.e. pertaining to under Sections 380/411 IPC, it may not be presumed that the applicant is a criminal, and therefore whole story which has been alleged against the applicant is in realm of suspicion and hypothetication which could not be believed.

8. It is further submitted that the applicant is in jail in this case since 18.06.2023. The criminal history of one case has been adequately explained in paragraph 50 of the bail application and the charge sheet has already been submitted in this case and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty.

9. Learned A.G.A. on the other hand submits that the applicant is accused of committing heinous offence and the motorcycle which was being ridden by the co-accused persons which has been identified by the injured witness Atul Kumar and the same has been recovered on the pointing out of the applicant along with a country made pistol, and therefore, the applicant is not entitled to be released on bail.

10. Having heard learned counsel for the parties and having perused the record, it is evident that on 12.6.2023 deceased Amit Kumar was done to death at about 7.00 P.M. by the two unknown persons who were ridding on a blue color motorcycle and the pillion rider of the motorcycle, namely, Atul Kumar was injured. The star witness of the crime is shown as injured witness Atul Kumar who has only stated of witnessing two persons riding on 'Apache' motorcycle of blue colour and no registration number of the same has been stated by him. After arrest of the applicant and other co-accused

persons their confessional statements have been recorded wherein they have stated that there was professional misunderstanding between Ashish and deceased Amit with regard to certain financial matters who were running a Company and Ashish in association with co-accused Manish and Rohit hatched a conspiracy to eliminate Amit and for this purpose the motorcycle was provided by Rohit and he has also shown to have contacted the applicant for commission of crime and in pursuance of the same the deceased was done to death. The role of driving the motorcycle has been attributed to applicant, while role of firing with pistol has been assigned to co-accused Manish. The motorcycle is shown to have been recovered on the joint pointing of the applicant and country made pistol has also been shown recovered on such pointing, while accused persons were in the custody of the police. The deceased has died of firearm injuries. The defence of the applicant appears to be that only by recovery of motorcycle at the pointing of the applicant may not associate him with any crime, specifically when the injured Amit Kumar has not stated the registration number of the motorcycle on which the assailants were riding and apart from the same the applicant is not having any interest or motive. Even if the confessional statement of the accused persons is believed which could not be proved against them by virtue of bar contained under Section 26 of the Indian Evidence Act the role of firing has been assigned to co-accused Manish. The applicant is in jail in this case since 18.06.2023. Criminal history of one case has been adequately explained in para 50 of the bail application. Charge sheet in this case has already been submitted. His presence may be secured before the trial court by placing adequate conditions.

11. 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 and demerits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is **allowed**.

12. Let the applicant- **Suraj Rawat** involved in the aforesaid case be released on bail on 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.

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

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

15. Observations made herein-above are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

Order Date :- 7.11.2023

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