

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11147 of 2023

Applicant :- Jitendra Singh Alias Badakkey

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

Counsel for Applicant :- Alok Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Rejoinder affidavit filed by learned counsel for the applicant is taken on record.
2. Heard Shri Alok Kumar Mishra, learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.
3. This bail application has been moved by the accused/applicant- **Jitendra Singh Alias Badakkey** for grant of bail, in Case Crime No. 0123 of 2023, under Sections 341, 147, 148, 149, 307, 302, 506 and 120-B I.P.C., Police Station Majhila, District Hardoi, during trial.
4. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. The F.I.R. of this case has been lodged by the father of the deceased, namely, Amit Shukla, who was not the eye witness of the incident and he on the basis of the information provided by some other persons has lodged the F.I.R. and the name of the applicant has been mentioned in the F.I.R. only on account of 'hearsay evidence'.
5. It is further submitted that the statement of the only injured witness, namely, Santosh was recorded by the investigating officer and he has neither named applicant nor has assigned any role to him in the incident, which prima facie reflects that the applicant has been falsely involved in this case.
6. It is also submitted that even if the case of the prosecution is taken on its face, the same appears to have been based on the confessional statement of the applicant, wherein his involvement is shown to the extent that he has helped or facilitated the other accused persons to commit crime.

7. It is also submitted that the applicant is shown to be involved in three other criminal cases, however, the same are pertaining to minor penal offences and in all these three cases the applicant has been granted bail by competent criminal Courts. Applicant is languishing in jail in this case since 04.04.2023. Charge sheet in this case has already been filed and there is no apprehension that after being released on bail he may flee from the course of law or may otherwise misuse the liberty.

8. Learned A.G.A. on the other hand submits that it is a case where two persons, namely, Ramakant and Amit Shukla were done to death and one injured Santosh has sustained fatal injuries and apart from the injured Santosh, there are many other witnesses whose statements have been recorded by the investigating officer and they have stated that applicant was one of the accused person who was assaulting the deceased persons and, thus, having regard to the fact that the matter is pertaining to 'double murder', the applicant is not entitled to be released on bail.

9. Having heard learned counsel for the parties and having perused the record, the prosecution case, as is evident from the record is to the tune that on 22.03.2023 deceased persons Amit Shukla and Ramakant were returning to their home and at 3:30 pm. when they arrived at a road situated near Gotiya Village and Canal Road, they were intercepted by the accused persons named in the F.I.R. and were assaulted by '*banka, hammer and hockeys*'. It is also stated in the F.I.R. that the informant and Pradeep Shukla, Anurag Shukla, Archit Kumar and Shivanshu were going to Shahabad in connection with the engagement of their grand-daughter and they have witnessed the incident and also challenged the accused persons, on which, they (accused persons) had left the scene after intimidating them. Both injured persons, namely, Ramakant and Amit Shukla succumbed to the injuries in the hospital.

10. The postmortem report of the deceased persons would reveal that deceased Ramakant has sustained 06 injuries of the nature of 'lacerated wound, stab wounds and abrasions' on different parts of his body and his death is shown to have been caused due to 'coma' as a result of 'antemortem head injuries'. Similarly the postmortem report of injured-deceased Amit Shukla would reveal that he has sustained as many as 07 injuries of the nature of incised wounds and abrasions on different parts of his body and his cause of death has been ascertained as 'coma' due to 'antemortem head injuries'. The other injured Santosh is also shown to have sustained injuries. During the course of investigation, there is no doubt that the injured Santosh in his statement has not alleged any imputation

against the applicant, however, there are witnesses, namely, Prdeep Shukla, Anurag Shukla, Archit Kumar and Shivanshu, who claimed to have seen the occurrence and they in one voice has alleged the role of assault to the instant applicant.

11. Thus, having regard to the allegations levelled against the applicant, in the statement of the eye witnesses, who have claimed to have seen the incident and having regard to the fact that it is a case where two persons are stated to have been done to death by the concerted efforts of the applicant and other accused persons, I do not find any good ground to released the applicant on bail. In result, the bail application of the applicant- **Jitendra Singh Alias Badakkey** is hereby *rejected*.

12. However, the trial Court is directed to conclude the trial with utmost expedition without granting soft adjournments to the either party and if all the witnesses of fact are not examined or trial is not concluded within one year from placing a copy of this order before trial Court, whichever is earlier, the applicant may approach this Court again for renewal of his plea of bail.

13. Let a copy of this order be immediately sent to the trial Court through the Sessions Judge concerned for strict compliance.

14. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression on the merits of the case.

Order Date :- 26.10.2023

Praveen