

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11358 of 2023

Applicant :- Sharikun

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

Counsel for Applicant :- Santosh Kumar Srivastava

Counsel for Opposite Party :- G.A.,Uma Shankar Verma

Hon'ble Brij Raj Singh,J.

1. Counter affidavit filed by learned A.G.A for the State is taken on record.

2. Heard Shri Santosh Kumar Srivastava, learned counsel for the applicant, Shri Uma Shankar, learned counsel for complainant as well as Ms. Rani Singh, Brief Holder of Shri Rajesh Kumar Singh, learned A.G.A.-I for the State and perused record.

3. The present bail application has been filed seeking release of the applicant **Sharikun**, on bail in Case Crime No. 63 of 2023 under Sections 302, 120-B, 504, 323, 34 I.P.C, Police Station- Gosainganj, District Faizabad/Ayodhya.

4. Learned counsel for the applicant submitted that the applicant along with other four accused have been named in the First Information Report and general allegation of assault has been levelled against the five accused alleging that the accused were armed with lathi and they assaulted the deceased with kicks and fists due to which he sustained injuries. The deceased was taken to the hospital where he was declared dead. Learned counsel for applicant has further submitted that the post-mortem report indicates only one injury and the same is not specifically assigned to the applicant. He further submitted that there was no intention to kill the deceased and it appears that due to personal dispute, altercation took place and the unfortunate incident happened.

5. Learned counsel for applicant lastly submitted that the applicant is a lady and she may be extended the benefit of Section 437 Cr.P.C and is entitled to be released on bail. He further stated that the applicant is languishing in jail since 13.07.2023.

6. On the other hand, learned A.G.A. has opposed the prayer of bail and has submitted that the applicant is named in the F.I.R and the deceased died due to injury sustained by him in the altercation, therefore, she is not

entitled for bail and her bail is liable to be rejected.

7. Considering over all facts and circumstances of the case, the material available on record, contents of F.I.R., other relevant documents, nature of offence, the argument that single injury has been received by the deceased and the same is not assigned specifically to the applicant, the argument that general allegation of assault has been levelled against applicant and other four co-accused, but specific role has not been assigned to any of them, as to who cause the said injury, the argument that the applicant is a lady and has requested for the benefit of Section 437 Cr.P.C, I find it to be a fit case for bail.

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

9. Let the applicant, **Sharikun** 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 she 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 her 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 her 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 her, 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 her in accordance with law.

10. 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 :- 12.10.2023/DiVYa