

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11547 of 2023

Applicant :- Jangali

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

Counsel for Applicant :- Manoj Kumari Tiwari, Sumit Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Counter affidavit, filed on behalf of the State, is taken on record.
2. Heard 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- **Jangali** for grant of bail in Case Crime No.0153 of 2023, under Sections 302/34 and 120-B IPC lodged at Police Station Kotwali Nanpara, District Bahraich, during trial.
4. Learned counsel for the accused-applicant, while pressing the bail application, submits that the applicant has been falsely implicated in this case and, he has not committed any offence, as claimed by the prosecution.
5. It is further submitted that in the FIR which has been lodged by the father of the deceased the applicant was not named and the same was lodged against unknown person, however, during the course of investigation, the investigating officer appears to have got some clue with regard to involvement of co-accused, Anoop and it was in the statement of co-accused, Anoop the role of the applicant has surfaced and the role assigned to the accused persons in their confessional statements, so far as the applicant is concerned, is to the tune that he had advised them to sacrifice a human being for the treatment of Anoop as he (Anoop) was suffering from severe headache for a long time.
6. Highlight the above, it is vehemently submitted that no incriminating article or material is shown to have been recovered from the possession or on pointing of the applicant and apart from confessional statements given by co-accused

persons in the custody of the police, there is no evidence or material against the applicant and having regard to Section 26 of the Indian Evidence Act the same may not be proved against the applicant. The applicant is languishing in jail in this case since 27.03.2023 and he is not having any previous criminal history. 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.

7. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed a heinous offence and, therefore, he is not entitled to be released on bail.

8. Having heard learned counsel for the parties and having perused the record, it is reflected that no one was named by the informant in the F.I.R. lodged by him. The dead body of the deceased, who is son of the informant, aged about 10 years, was found in the village and as per postmortem report, cause of death of the deceased was due to antemortem injuries as about 9 injuries of the nature of lacerated wounds, contusions, abrasions and incised wounds were found on the person of the deceased. The only evidence, which appears to be available against the applicant, is the confessional statement of himself and of other accused persons. Many submissions have been raised in order to show that the story as has been investigated by the investigating officer is highly improbable and could not be believed and even if it is believed, the role of only giving an advice has been assigned to the applicant and the involvement of the applicant has been made only through Section 120-B of the I.P.C. It is also canvassed before this Court that the bail application of another accused, namely, Chinta Ram was heard on 01.11.2023, however, the order has not been uploaded, but the status of the same is showing that the same has been partly allowed.

9. Be that as it may, having regard to all the facts and circumstances of the case and the role, which has been assigned to the applicant, a case of bail is made out in his favour. The applicant has been languishing in jail in this case since 27.03.2023 without any previous criminal antecedents. Charge sheet in this case has also been filed and the presence of the applicant may be secured before the trial court by placing adequate conditions.

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

11. Let the accused/applicant - **Jangali**, involved in above-mentioned case, be released on bail on his 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.

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

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

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.

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[Mohd. Faiz Alam Khan, J.]

Order Date :- 6.11.2023

MVS/-