

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13209 of 2022

Applicant :- Sukai

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

Counsel for Applicant :- Vijay Kumar, Ravi Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Shri Vijay Kumar, learned counsel for the accused/applicant as well as learned AGA for the State and perused the record.

2. This bail application has been moved by the accused/applicant- **Sukai** for grant of bail, in Case Crime No. 151 of 2021, under Sections 308, 504, 506 & 304 IPC, Police Station Kotwali Nagar, District Sultanpur, during trial.

3. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. The role of assault has been assigned to the applicant as well as co-accused- Rekha, however, co-accused Rekha has been granted anticipatory bail by a Coordinate Bench of this Court, vide order dated 18.10.2021 passed in Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No. 11581 of 2021.

4. It is further submitted that there are material contradictions with regard to the commission of the incident as shown in the FIR and in the statement of the prosecution witnesses, moreover the medical evidence is also in direct contrast with the ocular version of the incident. The applicant is in jail in this case 23.06.2022 and he is not having any criminal antecedent. Charge sheet in this case has already been filed 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.

5. Learned AGA on the other hand opposes the prayer of bail of the applicant on the ground that the applicant has been assigned the role of assaulting the deceased on his head and therefore, he is not entitled to be released on bail, having regard to the injury sustained by the deceased.

6. Having heard learned counsel for the parties and having perused the record, it is reflected that in the postmortem report, three injuries have been found on the person of the deceased, two of such injuries have been found on the left eye and head. The fatal injury has been found on the head of the deceased, beneath which a massive hematoma was also noticed and fracture of temporal bone was also noticed, apart from a laceration found on the buttock of the deceased. In the First Information Report which appears to have been lodged by the wife of the deceased who had claimed herself to be the eye witness of the incident, the role of assault on the head of the deceased with a 'Lathi' is shown to have been attributed to the instant applicant.

7. Thus, keeping in view the specific role of assault assigned to the applicant by the first informant who is also the eye witness of the incident, thus, at this stage, I do not find any good ground to release the applicant on bail and therefore the application for bail moved by the applicant is hereby ***rejected***.

8. However, the trial court is directed to record the statement of all the prosecution witnesses of fact (eye witnesses) within a period of 4 months from today and if in this regard, the case before the trial court is required to be listed once or twice in a week, the trial court shall do so. The S.S.P. Sultanpur shall be responsible for producing all the prosecution witnesses before the trial court on each and every date of such listing.

9. A copy of this order be immediately sent to the trial court through Sessions Judge concerned. A copy of this order shall also be provided to the learned AGA free of cost for the purpose of transmitting it to the S.S.P. Sultanpur. After four months the applicant may again renew his prayer for bail before this Court.

Order Date :- 11.10.2023

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