

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11681 of 2023

Applicant :- Shivam Singh

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

Counsel for Applicant :- Dhananjai Kumar Tripathi

Counsel for Opposite Party :- G.A., Sharvan Kumar Pandey, Shrawan Kumar Pandey

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Shri Dhananjai Kumar Tripathi, learned counsel for the accused-applicant as well as learned A.G.A. for the State, Shri Shrawan Kumar Pandey, learned counsel for the informant/complainant and perused the record.

2. This bail application has been moved by the accused/applicant- **Shivam Singh** for grant of bail, in Case Crime No.140 of 2023, under Section 304 I.P.C., Police Station Dargah Sareef, District Bahraich, during trial.

3. 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.

4. It is further submitted that the allegations as levelled in the F.I.R. and in the statement of the prosecution witnesses are to the tune that the deceased has been assaulted by the applicant and co-accused persons, however, statement of many eye witnesses namely Santosh Singh, Gaurv Gupta, Chandra Bhan Singh, Sumit Kumar Singh and many others have been recorded by the investigating officer, wherein they all have stated that deceased had tied E-rickshaw with his motorcycle and when he was driving the motorcycle along with E-rickshaw, he collided with the cemented pavement and had hit polls and sustained injuries and thereafter, he was caught by the applicant and other co-accused persons.

5. It is vehemently submitted on behalf of the applicant that there is either no intention or motive to commit homicide of the deceased and it is by accident which had occurred while he (deceased) was running with the E-rickshaw, he had sustained injuries. It is also submitted that identically placed co-accused

person namely Kuldeep Singh @ Mahendra Pratap Singh has been granted bail by a Coordinate Bench of this Court vide order dated 4.10.2023 passed in Criminal Misc. Bail Application No. 11802 of 2023.

6. It is next submitted that applicant is in jail in this case since 11.05.2023 and he is not having any criminal history, charge-sheet in this case has already been submitted and there is no apprehension that after being released on bail the applicant may flee from the course of law or may otherwise misuse the liberty.

7. Learned A.G.A. as well as Shri Shrawan Kumar Pandey, learned counsel for the informant/complainant, however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and having regard to the material/evidence available against the applicant, he is not entitled to be released on bail, but could not controvert the other factual submissions made by learned counsel for the applicant.

8. Having heard learned counsel for the parties and having perused the record, it is evident that identically placed co-accused person namely Kuldeep Singh @ Mahendra Pratap Singh has been granted bail by a Coordinate Bench of this Court and nothing has been brought before this Court, which may suggest that the order, whereby identically placed co-accused person namely Kuldeep Singh @ Mahendra Pratap Singh has been granted bail, has been challenged at any higher forum. Charge-sheet in this case has already been filed. Applicant is in jail in this case since 11.05.2023 without any previous criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions.

9. Having regard to the overall facts and circumstances of the case and 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**.

10. Let the accused/applicant- **Shivam Singh** 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.

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

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

13. 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 of this Court on the merits of the case.

Order Date :- 17.10.2023

Anupam S/-