

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12071 of 2023

Applicant :- Dinesh

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

Counsel for Applicant :- Sukh Deo Singh, Paritosh Shukla

Counsel for Opposite Party :- G.A., Manoj Kumar Misra

Hon'ble Mohd. Faiz Alam Khan, J.

1. Counter affidavit filed by the State is taken on record.
2. Heard Shri Sukh Deo Singh, learned counsel for the accused/applicant, Shri Pankaj Kumar Tiwari, learned counsel for complainant/ informant 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- **Dinesh** for grant of bail, in Case Crime No. 110 of 2023, under Sections 147, 323, 452, 504, 506, 34, 304 IPC, Police Station Baldirai, District Sultanpur, during trial.
4. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. In the First Information report as well as in the statement of the prosecution witnesses including the injured witnesses, namely, Anita and Gudia, general role of assault has been assigned to all the accused persons named in the FIR and no overt act or specific role has been assigned to the applicant.
5. It is vehemently submitted that in the postmortem report of the deceased only one lacerated wound has been found and the role of assault has been assigned to 6 persons named in the FIR and having regard to the fact that no specific role has been assigned to the applicant or any other persons, it may not be ascertained as to who amongst the accused persons were the author of fatal injury.
6. It is also submitted that other injured persons, namely, Anita and Gudia had sustained simple injuries.

7. It is also submitted that, infact it was the accused persons who were assaulted by the informant party, in this regard the injury reports of the applicant (Dinesh), Raj Kumar, Dhani Ram @ Ram Dhani, Vipin Chauhan and Vimla have been referred which has been placed on record.

8. It is further submitted that the manner in which a bamboo stick is shown to have been recovered from the applicant on the pointing of the applicant could also not be believed in absence of independent public witness.

9. It is also submitted that identically placed co-accused persons and other persons, namely Vipin, Vimla and Raj Kumar have been granted regular bail by a Coordinate Bench of this Court, vide orders dated 25.8.2023, 26.9.2023 and 20.11.2023 passed in Crl. Misc. Bail Applications Nos. 10153 of 2023, 11355 of 2023 and 13643 of 2023, respectively and one co-accused, namely, Babuna has been granted Anticipatory Bail by a Coordinate Bench of this Court, vide order dated 22.8.2023 passed in Criminal Misc. Anticipatory Bail Application u/S 438 Cr.P.C. No. 1853 of 2023.

10. It is also submitted that the applicant is in jail in this case since 25.04.2023 and he is not having any criminal history. Charge sheet in this case has already been submitted 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.

11. Learned A.G.A. on the other hand submits that the applicant is accused of committing an heinous offence, therefore, he is not entitled to be released on bail.

12. Learned counsel for the complainant/ informant vehemently opposes the prayer for bail of the applicant on the ground that by assault given by the applicant and other co-accused persons, a person has lost his life and another two have been injured. Thus, the applicant is not entitled to be released on bail, moreso when a bamboo stick has also shown to be recovered from the possession of the applicant.

13. Having heard learned counsel for the parties and having perused the record, it is evident that general allegations of assault has been levelled against all the accused persons name

in the FIR. Admittedly, no overt act has been assigned to the instant applicant. The deceased had sustained one lacerated wound on his head and the defence of the applicant appears to be that since no specific role has been assigned to any accused persons, it may not be ascertained atleast at this juncture as to who from amongst the accused persons was the author of the fatal injury. The other two injured persons have sustained minor injuries. There are various medical reports placed on record with regard to the injuries sustained from the applicant's side. Identically placed co-accused persons, namely, Vipin, Vimla and Raj Kumar have been granted regular bail by a Coordinate Bench of this Court and one Babuna has been granted anticipatory bail by a Coordinate Bench of this Court. The applicant is in jail in this case sine 25.4.2023 and he is not having any criminal antecedent. Charge sheet in this case has already been filed. His presence may be secured before the trial court by placing adequate conditions.

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

15. Let the applicant- **Dinesh** involved in the aforesaid case be released on bail on 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.

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

17. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are

accepted.

18. Observations made herein-above are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

Order Date :- 24.11.2023

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