

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12778 of 2023

Applicant :- Jai Prakash Nishad @ Chattu

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

Counsel for Applicant :- Ashish Kumar Singh, Anand Kumar Yadav, Anuj Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Learned A.G.A. informs that he has procured complete instructions in the matter including upto date case diary of the case and having regard to the order passed by this Court on 31.10.2023, it appears to be a case of parity.

2. Heard Shri Anand Kumar Yadav, learned 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- **Jai Prakash Nishad @ Chattu** for grant of bail, in Case Crime No.35 of 2023, under Section 302 I.P.C., Police Station Gosaiganj, District Ayodhya, 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 even if the case of the prosecution as is emerging from the F.I.R. as well as from statement of the informant and other witnesses recorded by the investigating officer is taken on its face, the same would project that the deceased had met with a road traffic accident and consequence of the same, he had sustained injuries as a result of which he had died.

6. Attention of this Court has been drawn on the statement of Dr. Mohd. Mustaqueem Ansari, who had conducted the postmortem of the deceased, in order to show that the Doctor in categorical terms stated that death of the deceased had occurred due to injuries sustained in an accident. Statement of Constable Shivaji Yadav has also been highlighted in order to show that in

the intervening night of 01/02.02.2023 he was on duty on PRV 4311 and when he was standing along with PRV in front of a petrol pump at 01:00am, a pulsar motorcycle ridden by three persons had arrived and these persons were highly intoxicated and on the next day, he got information that the motorcycle had met with a accident and one of the persons had died.

7. It is further submitted that even after arrest of the applicant and co-accused, in their confessional statement, they have narrated the real story to the investigating officer with regard to the fact that at the relevant point of time, the applicant, co-accused and the deceased had met a road traffic accident as a result of which the deceased was injured. There is no iota of evidence on the basis of which charge sheet could be filed. It is also submitted that co-accused Shravan Kumar Yadav standing on identical footing has been granted bail by a Coordinate Bench of this Court vide order dated 18.07.2023 passed in Criminal Misc. Bail Application No.9001 of 2023.

8. It is next submitted that applicant is in jail in this case since 05.02.2023 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.

9. Learned A.G.A., 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 submissions made by learned counsel for the applicant with regard to the fact that the role of the applicant is identical to the role of the co-accused Shravan Kumar Yadav, who has been granted bail.

10. Having heard learned counsel for the parties and having perused the record, it is evident that in the F.I.R., an apprehension/suspicion has been shown with regard to the fact that the offence may be committed by the applicant and co-accused person. Apart from this statement of one Nirankar is shown to have been recorded, who also had suspicion and apprehension pertaining to the involvement of the applicant and co-accused person in the crime. Statement of the Constable, who had seen the applicant and another accused as well as the deceased in highly intoxicated state, and confessional statement of the applicant and another accused person as well as the statement of Doctor, who had conducted postmortem of the deceased, has been highlighted in order to show that the instant case is accidental and the same may not be termed as homicidal. Identically placed co-accused Shravan Kumar Yadav has been

granted bail by a Coordinate Bench of this Court. Charge-sheet in this case has already been filed. Applicant is in jail in this case since 05.02.2023 without any previous criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions.

11. 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**.

12. Let the accused/applicant- **Jai Prakash Nishad @ Chattu** 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.

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

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

15. 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 :- 6.11.2023

Anupam S/-