

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12826 of 2023

Applicant :- Satyam Pal Alias Satyendra Pal

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., Ramakar Shukla

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Shri Sukh Deo Singh, learned counsel for the accused/applicant, Shri Rahul Kumar holding brief for Shri Ramakar Shukla, learned counsel for the informant/complainant as well as learned A.G.A. for the State and perused the record.

2. This bail application has been moved by the accused/applicant- **Satyam Pal Alias Satyendra Pal** for grant of bail, in Case Crime/ FIR No. 49 of 2023, under Sections 302, 201, 120-B IPC, Police Station Kotwali Dehat, 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 FIR of this case has been lodged by the informant Nizam Ahmad against the applicant and 2 named and other unknown persons on 7.2.2023 at Police Station Kotwali Dehat, Sultanpur pertaining to the fact that on 5.2.2023 at about 7.00 P.M. the deceased had gone with the applicant and other two named accused persons i.e. Akash @ Golu and Dharm Raj @ Dhanni and did not return thereafter. However, in the morning, a blood stained slipper of the deceased was found near *Sirwara Ghat* and with the help of the divers, the dead body of the deceased was also recovered from the river. The apprehension is shown that the deceased has been done to death by the applicant and two other named accused persons with the help of unknown persons.

4. Highlighting the above, it is vehemently submitted that the name of the applicant has been shown in the FIR only on the basis of suspicion and apprehension. The informant is admittedly not the eye witness of the crime and the motive which has been assigned for commission of the offence could only be attributed to other two accused persons, namely, Dharamraj @ Dhanni and Akash @ Golu.

5. It is further submitted that after lodging of the First Information Report on the basis of suspicion, the two named accused persons, namely, Akash Nishad @ Golu and Dharamraj @ Dhanni were arrested on 09.02.2023 and they are shown to have confessed their guilt wherein they have not whispered any thing against the applicant and have claimed to have caused the death of the deceased by inflicting injuries through a country made pistol and a knife. However, without there being any necessity, the Investigating Officer appears to have recorded the additional statement of the two accused persons allegedly arrested by him on 09.02.2023, wherein also there was no whisper pertaining to the applicant, however, the third additional statement of two accused persons, namely, Akash @ Golu and Dharamraj @ Dhanni was recorded by the Investigating Officer on 29.8.2023 after six months of lodging of the FIR, wherein these two accused persons are shown to have implicated the applicant also and assigned the role of conspiring and also of taking the deceased with him towards the Sirwara Ghat.

6. Highlighting the above fact, it is vehemently submitted that the story as investigated by the Investigating Officer is false, concocted and could not be believed as there are other two prosecution witnesses, namely, Islam and Zahid who have claimed to have seen the applicant, Akash @ Golu and Dharamraj @ Dhanni taking with them the deceased and when the deceased was being taken by Akash @ Golu and Dharamraj @ Dhanni, there was no necessity for them to have involved the applicant. More-so, the statement of these two witnesses, namely, Islam and Zahid is also could not be believed as the same have been recorded after a lapse of six months and no explanation of such a huge delay in recording the statement under Section 161 Cr.P.C. has been given. Thus, there is no evidence against the applicant, admittedly no incriminating article has been recovered from his possession or his pointing. The applicant is in jail in this case since 15.09.2023 and he is not having any criminal antecedent. 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 and even if the case of the prosecution is taken on its face, the role of the instant applicant is distinguishable from the role of other co-accused persons, namely, Akash @ Golu and Dharamraj @ Dhanni, who confessed to have cause the death of the deceased.

7. Learned A.G.A., however, opposes the prayer for bail of the applicant but could not dispute the other factual submissions made by the learned counsel for the accused-applicant.

8. Similarly, Shri Rahul holding brief for Shri Ramakar Shukla

vehemently opposes the prayer of bail of the applicant on the ground that the applicant was part and parcel of a well hatched conspiracy and the deceased has been done to death.

9. Having heard learned counsel for the parties and having perused the record, it is reflected that the Investigating Officer has investigated the FIR in terms that Akash @ Golu and Dharamraj @ Dhanni were having enmity with the deceased as he was having a bad eye on their cousin sister. These two accused persons, namely, Akash @ Golu and Dharamraj @ Dhanni are shown to have been arrested on 9.2.2023 and their statements under Section 161 Cr.P.C. has been recorded by the Investigating Officer thrice. In the first two statements of these accused persons, they claimed to have caused the death of the deceased by inflicting injuries through firearm and knife and there was no whisper about the instant applicant. It was in the third confessional statement of the co-accused Akash @ Golu and Dharamraj @ Dhanni, they have implicated the instant applicant and the role of being part and parcel of the conspiracy is being activated to him. After six months of the incident, the statement of two other prosecution witnesses, namely, Islam and Zahid is also shown to have been recorded wherein they claimed to have seen the applicant along with co-accused persons Akash @ Golu and Dharamraj @ Dhanni going towards Sirwara Ghat with the deceased. The role of assault even in their confessional statement have been assigned to Akash @ Golu and Dharamraj @ Dhanni to themselves. The case of the prosecution is based on circumstantial evidence as nobody has claimed to have seen the applicant or any other persons committing the offence. The applicant is in jail in this case since 15.9.2023 and he is not having any criminal antecedent. His presence 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 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**.

11. Let the applicant- **Satyam Pal Alias Satyendra Pal** 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.

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 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 :- 19.12.2023

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