

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12855 of 2023

Applicant :- Ratnesh Kumar @ Lalu

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

Counsel for Applicant :- Avnish Kumar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Learned A.G.A. informs that she has procured complete instructions in the matter including upto date case diary of the case.

2. Heard Shri Avnish Kumar Tiwari, 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- **Ratnesh Kumar @ Lalu** for grant of bail, in Case Crime No.101 of 2022, under Sections 323, 304, 506 I.P.C., Police Station Sandi, District Hardoi, 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 F.I.R. of this case has been lodged by the son of the deceased on 25.03.2023 at Police Station Sandi, District Hardoi alleging therein that on 21.03.2022 at about 07:00pm. his father (deceased) aged about 55 years was returning to his home from Sandi Tiraha and when he arrived in front of Village - Ghatkana, his motorcycle was collided with the applicant and the milk, which he was carrying in *kamandal*, had spilled on which the applicant had called his associates and started assaulting his father, whereby he sustained grievous injuries and succumbed to them during the course of treatment. In the postmortem of the deceased, which was conducted on 29.03.2022, five injuries of the nature of contusion and lacerated wound have been found and as per opinion of the Doctor, death of the deceased has been caused due to comma as a result of ante mortem head injury.

6. Highlighting the above facts, it is vehemently submitted on behalf of the applicant that allegations of the F.I.R. were thoroughly investigated by the investigating officer and it was

found that in fact the deceased had met with a road accident and he (deceased) had collided his motorcycle with one Suresh and after hitting him when he was fleeing away from the scene, his motorcycle had slipped and he sustained injuries and on the basis of prior enmity, the F.I.R. has been lodged against the applicant and other accused persons.

7. It is further submitted that it appears that at the instance of the higher authorities of the police, Final Report was again directed to be further investigated and after further investigation without there being any sufficient material, charge sheet has been filed against the applicant. It is vehemently submitted that by filing Final Report/Closure Report in favour of the applicant and thereafter filing of charge sheet against the applicant, the prosecution has itself made its case doubtful and the statement of Suresh with whom the deceased had met with an accident, has not been taken into consideration by the investigating officer and the case of accident has been converted into a case of homicide without there being any cogent reasons or material.

8. It is next submitted that applicant is in jail in this case since 13.08.2023 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 after thorough investigation, charge sheet has been filed against the applicant under relevant penal sections 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.

10. Having heard learned counsel for the parties and having perused the record, it is evident that though in the F.I.R. applicant along with other accused persons was named and role of assault has also been assigned to the applicant. The investigating officer has recorded statement of many witnesses including one Suresh and it is surfaced that at the relevant date and time, the deceased had met with an accident as he had hit bicycle of one Suresh and when he was fleeing away from there, his motorcycle slipped and on the basis of it, Final Report/Closure Report was filed. The matter appears to have further investigated under the orders of the superior officer of the police and thereafter, charge sheet has been filed. The defence of the applicant appears to be that the case of the prosecution is highly doubtful on the basis of statement of various witnesses including of one Suresh. Final Report/Closure

Report was submitted earlier and charge sheet has been submitted subsequently without there being any cogent reasons or material. Be that as it may, having regard to all the facts and circumstances of this Court, in the considered opinion of this Court, keeping an eye on the fact that the applicant is not having any criminal history and earlier Final Report/Closure Report was submitted, a case of bail is made out in favour of the applicant. Applicant is in jail in this case since 13.08.2023. 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- **Ratnesh Kumar @ Lalu** 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 :- 1.11.2023/Anupam S/-