

**Court No. - 14**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 13068 of 2023

**Applicant :-** Romil

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

**Counsel for Applicant :-** Avikshit Mishra

**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 and charge sheet in this case already been submitted.
2. Heard Shri Avikshit Mishra, 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- **Romil** for grant of bail, in Case Crime No.119 of 2023, under Sections 147, 148, 304 I.P.C., Police Station Shahabad, 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 the applicant has been dragged into this case on account of his relation with co-accused Chhaggoo @ Haggoo, who is the cousin of the applicant and with whom the real scuffle had taken place. It is also submitted that F.I.R. of this case has been lodged by one Kashiram (father-in-law of the deceased) on 10.03.2023 at Police Station Shahabad, District Hardoi stating therein that on 08.03.2023 about 11:00pm co-accused Chhaggoo S/o Tahar had come to extend the greetings of Holi and when it was late in the night the deceased asked him to leave as he wanted to sleep on which Chhaggoo @ Haggoo became annoyed and assaulted the deceased and also called Tahar (his father), who arrived with a gun and other co-accused persons (including applicant) and

Tahar assaulted the deceased with butt of the gun while the applicant and other co-accused persons assaulted him with lathis and when the deceased was being taken to the hospital, he succumbed to the injuries at about 03:00am. in the night.

6. It is vehemently submitted on behalf of the applicant that in fact, as per the version of the incident described in the F.I.R., at first the quarrel/fight had taken place between Chhaggoo @ Haggoo and the deceased and when the wife of the deceased (daughter of the informant) and other family members came to rescue the deceased, they were also assaulted and on this Chhaggoo is stated to have informed his father Tahar through mobile phone, who has arrived with a gun along with the applicant and other co-accused persons, who were carrying lathi. Thus specific role of assault with butt of the gun has been assigned to the father of Chhaggoo namely Tahar.

7. While drawing attention of this Court towards the postmortem report of the deceased, it is vehemently submitted that only abrasions have been found on different parts of the deceased, which may only be attributed to the butt of a gun and no contusions or any lacerated wound has been found, which denies the theory of assault with lathi/danda moreover no lathi or danda has been recovered either from the possession or on the pointing of the applicant. No specific role or overact has been assigned to the applicant.

8. It is next submitted that applicant is in jail in this case since 14.03.2023 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. Co-accused Rahul and Mahipal have been granted bail by this Court as well as by a Coordinate Bench of this Court, vide orders dated 5.10.2023 and 19.10.2023 passed in Criminal Misc. Bail Application Nos. 11895 of 2023 and 12514 of 2023, respectively.

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 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 quarrel as per prosecution version of the incident had started between the co-accused Chhaggoo and the deceased and thereafter Chhaggoo had

assaulted the deceased as well as other family members of the informant and thereafter the father of Chhaggoo namely Tahar had arrived as he was informed by Chhaggoo @ Haggoo. Applicant as well as other co-accused persons have been assigned the role of holding lathi while Tahar was having a gun and specific role of assault with butt of the gun has been assigned to the co-accused Tahar while general role of assault with lathi/danda has been assigned to the applicant. It has been vehemently submitted on behalf of the applicant that four injuries, which have been sustained by the deceased, are of the nature of abrasion, which could not be caused by the lathi and in all probability may be associated with the butt of the gun. Admittedly no lathi or danda has been recovered either from the possession or on the pointing of the applicant. Charge-sheet in this case has already been filed. Applicant is in jail in this case since 14.03.2023 without any previous criminal history. Identically placed co-accused persons, namely, Rahul and Mahipal have been granted bail by this Court as well as by a Coordinate Bench of this Court. 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- **Romil** 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**

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