

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13172 of 2023

Applicant :- Susheel Kumar And 2 Others

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

Counsel for Applicant :- Shishir Pradhan

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard Shri Shishir Pradhan, learned counsel for the accused-applicant as well as Ms. Priyanka Pandey, learned A.G.A. for the State and perused the record.

2. This bail application has been filed seeking release of the accused/applicants **Susheel Kumar, Dinesh Kumar and Ram Kumar** on bail, who is involved in Case Crime No. 0266 of 2023, under Sections 323, 325, 504, 506 & 304 I.P.C., Police Station Unchahar, District Raebareli.

3. Learned counsel for the applicants has submitted that the First Information Report has been lodged by the complainant alleging that on 04.06.2023, at about 9 O'Clock, while his brother Phool Chand (deceased) was going to look after his crops, on the way, the applicant along with two other co-accused armed with lathi danda started assaulting his brother. Due to old enmity, the applicant along with accused persons assaulted the brother of the complainant with lathi danda due to which he received serious injuries on various parts of the body he died. It is further alleged that the said incident took place on 04.06.2023 and the First Information Report was lodged on 05.06.2023, i.e, after one day from the date of incident. Learned counsel for applicants submitted that general allegation of assault has been levelled against the applicants and the post-mortem report indicates that five injuries have been caused to the deceased out of which injury no.s 1, 2 and 5 have been caused on the vital part of the body whereas injury no. 3 and 4 have been caused on the non-vital parts of the body. He further submitted that the deceased fell from the tree due to which he received injuries and due to old enmity between the parties, the applicant has been falsely implicated in the present case. He further submitted that there is no criminal history against the applicants and he is in languishing in jail since 07.06.2023.

4. Learned A.G.A. for the State has opposed the prayer for grant of bail and has submitted that the applicants assaulted the deceased with *lathi danda* and on the joint pointing out, the said *lathi danda* have been recovered. She further submitted that the deceased received the following injuries out of which three injuries are on vital part of the body and two injuries are on the non-vital part of the body.

(i) Abrasion 1cm x 1cm brown in colour present 1cm bellow right eye.

(ii) Abrasion of size 1 x 1cm, brown in colour, present at right side front of chest, 5 cm towards sternum at 5 O'clock.

- (iii) Abrasion of size 3 x 1 cm brown in colour, present at right elbow joint.
- (iv) Contusion of size 12 cm x 9 cm present at left leg 6 cm below left knee joint, on opening underneath bone found fractured.
- (v) Contusion of size 18 cm x 13 cm present over abdomen. On opening underneath 2.5 litre of feces and blood mixed free fluid present in abdominal cavity and perforation of ascending colon of size 9 cm x 0.7 cm present.

5. Learned A.G.A further submitted that the death of deceased has been caused due to anti-mortem injuries and it is a heinous crime that has been committed in furtherance of a common intention. She has further shown the Case Diary and the statement of the daughter of deceased namely Gayatri, who has stated that her mother had died long back and she is the only girl child and has no brother or sister. She further stated that her father was beaten by the applicants due to old enmity. Learned A.G.A further submitted that since the applicants have committed a heinous crime therefore, he does not deserve mercy of the Court and thus, the bail application of the applicants is liable to be rejected.

6. Considering the facts and circumstances of the case, perusing the record and also considering the nature of allegations, arguments advanced by the learned counsel for the parties, the argument that the deceased received five injuries out of which three injuries are serious in nature and have been caused on the vital parts of the body, the argument that the applicants assaulted the deceased with *lathi danda* due to which he died, the argument that the independent witnesses including the daughter of deceased have supported the prosecution case, I do not find it to be a fit case for grant of bail.

7. The bail application of the accused/applicants **Susheel Kumar, Dinesh Kumar and Ram Kumar** is hereby rejected.

8. The trial Court is directed to conclude the trial within a period of one year from the date of production of certified copy of this order.

Order Date :- 7.11.2023
DiVYa/Rajneesh JR-PS)