

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13420 of 2023

Applicant :- Akhilesh Yadav @ Sonu Yadav

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

Counsel for Applicant :- Abhishek Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Amit Kumar Awasthi, learned counsel for the applicant, Ms. Ankita Tripathi, learned A.G.A. for the State and perused the records.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 405 of 2023, under Sections 307, 504, 120-B I.P.C. and Section 3/25 Arms Act, registered at Police Station Kotwali Sadar, District Kheri.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 07.05.2023 against (i) Mayank Mishra, and (ii) Ajay Mishra and two unknown persons alleging that the accused persons had shot at the informant's son between 8-9 p.m. on 06.05.2023.

4. In the statement of the informant recorded under Section 161 Cr.P.C. he supported the F.I.R. allegation and he stated that he did not know other two persons involved in causing the incident, who are not named in the F.I.R.

5. In response to a specific question that it was dark at the time of the incident and he has been shot from his back and in this circumstances how could he identify the miscreants, he stated that he identified Mayank Mishra @ Polu and Ajay Mishra and he cannot say as to whether other two unknown persons were involved in causing the incident or not. Another question was put to the victim that when he was in district hospital Oel he had told that besides Mayank Mishra and Ajay Mishra, one Ravi Prakash Singh Dampi and an unknown person were involved in causing the incident but thereafter he had come to know that Ravi Prakash Singh Dampi had gone away and that was the reason that he had not named him in the F.I.R., and he implicated two persons because they had given evidence in a murder case against him, the victim did not give any reply and he pretended by closing his eyes that he had fallen unconscious. The applicant has been implicated in the present case on the basis of custodial statements of Iqbal @ Faster and Raj Kumar Chaudhari.

6. In the affidavit filed in support of bail application it has been stated that the applicant is innocent and he has been falsely implicated in the

present case.

7. The applicant's involvement in 9 other cases has been disclosed in para 28 of the affidavit, in 6 of which the applicant has already been granted bail and in 2 cases he has been acquitted.

8. The learned counsel for the applicant has submitted that co-accused Iqbal @ Faster and Raj Kumar Chaudhari, Kuldeep Bajpai have already been granted bail by means of orders dated 16.08.2023, 24.08.2023 and 30.10.2023 passed by this Court in Criminal Misc. Bail Applications Nos. 9852 of 2023, 10622 of 2023 and 12716 of 2023 respectively.

9. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

10. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the incident occurred between 8-9 p.m. on 06.05.2023 and the F.I.R. has been lodged at 13.01 hrs. on 07.05.2023 and there is no explanation for the delay in lodging the F.I.R.; that the applicant is not named in the F.I.R. or in the statement of the informant or the victim recorded by the Investigating Officer; that the applicant has been implicated on the basis of custodial statement of two co-accused persons and those two co-accused persons have already been granted bail, coupled with the fact that the applicant is languishing in jail since 10.05.2023 and without making any observations which may affect the merits of the case, I am of the view that the applicant is also entitled to be released on bail.

11. Accordingly, this bail application stands allowed.

12. Let the applicant-Akhilesh Yadav @ Sonu Yadav be released on bail in the aforesaid case, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of magistrate/court concerned, subject to following conditions:-

- (i) the applicant shall not tamper with the prosecution evidence;
- (ii) the applicant shall not pressurize the prosecution witnesses;
- (iii) the applicant shall appear on each and every date fixed by the trial court.

(Subhash Vidyarthi, J.)

Order Date :- 9.11.2023
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