

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13549 of 2023

Applicant :- Satya Pratap @ Tinku

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

Counsel for Applicant :- Atul Verma, Akhilendra Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Counter affidavit filed by the State is taken on record.
2. Heard Shri Akhilendra Pratap Singh, learned counsel for the accused/applicant 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- **Satya Pratap @ Tinku** for grant of bail, in Case Crime No. 35/2023, under Sections 302, 120-B IPC, Police Station Baddupur, District Barabanki, during trial.
3. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. In the FIR which has been lodged by one Dharmendra Kumar Verma, no one was named and it is only stated that the deceased has been found dead in the 'Chhappar' where he used to live, however later on, the Investigating Officer appears to have developed a case that the deceased had developed illicit relations with the mother of the applicant and father of the applicant was insisting the deceased to transfer his property in the name of his son, while the deceased was inclined towards the informant and a quarrel had earlier taken place between them on this issue.
4. It is vehemently submitted that apart from the motive there is no evidence against the applicant. The evidence of extra judicial confession has been procured by the I.O. to the tune that the applicant and his brother had gone to the house of one Indra Pal Verma and have confessed their guilt, which could not be believed by any stretch of imagination as Indra Pal Verma was not at all in any position to help the applicant and he is a planted witness. Moreover, his statement has been recorded on 2.6.2023 with considerable delay and no explanation of the delay has been given.

5. It is also submitted that the statement of two other witnesses, namely, Sohan Lal Rawat and Chet Ram Rawat were also recorded after many months of the incident on 02.06.2023, wherein they have only shown an apprehension that the offence may be committed by the accused persons.

6. It is also submitted that motive assigned to the applicant and other co-accused persons for commission for offence may also not be believed on the score that after the death of the deceased, mother of the informant, namely, Savitri Devi had moved an application for mutation pertaining to the properties of the deceased and her name has been mutated thereon. In this regard documents which may suggests mutation of Savitri Devi has been placed on record as S.A. 1 to the Supplementary Affidavit dated 9.11.2023.

7. It is also submitted that motive also loses its significance as the mother of the informant after getting her name mutated with regard to the properties of the deceased has also executed sale deed and copies of those sale deed has also been placed with supplementary affidavit dated 9.11.2023.

8. It is vehemently submitted that identically placed co-accused person, namely, Deenanath has been granted bail by a Coordinate Bench of this Court, vide order dated 23.11.2023 passed in Criminal Misc. Bail Application No. 11497 of 2023 and the case of the instant applicant is on a better footing than him and the motive could only be available to the co-accused Deenanath.

9. It is also submitted that a criminal history of one case pertaining to Section 60 of Excise Act has been lodged against the applicant, however, the applicant has not received any process with regard to the same and it is undertaking that as soon as any process with regard to that case would be received, the applicant shall appear before the concerned court, immediately.

10. It is also submitted that the applicant is in jail in this case since 07.06.2023 and 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.

11. Learned A.G.A. on the other hand submits that the applicant is accused of committing an heinous offence, however, he could not confront that identically placed co-accused, namely, Deenanath has been granted bail by a Coordinate Bench of this Court.

12. Having heard learned counsel for the parties and having perused the record, it is reflected that the applicant or any other accused persons was not named in the FIR. The dead body of the deceased has been found in the 'Chhappar' where the deceased was residing. The postmortem report of the deceased would reveal that various injuries have been found on the body of the deceased and the cause of death has been shown as 'shock and hemorrhage' due to 'ante-mortem' injuries. The case of the prosecution rests on circumstantial evidence as nobody have claimed to have seen the applicant committing the offence. The prosecution has relied on the evidence of a witness, namely, Indra Pal Verma before whom the applicant and his brother is shown to have confessed their guilt as well as the recovery of 'brick' on the pointing of the applicant. The same has been doubted by learned counsel for the applicant on the ground that there was no reason available for the applicant and other co-accused persons to confess their guilt before Indra Pal Verma who was not at all in a position to render any help to them. With regard to the recovery, it is stated that the same could also not be believed in absence of any independent public witness. Apart from this, it is submitted that the case is based on assumptions and apprehensions. Identically placed co-accused person, namely, Deenanath has already been granted bail by a Coordinate Bench of this Court. Criminal history of one case has been adequately explained. The applicant is in jail in this case since 7.6.2023. His presence may be secured before the trial court by placing adequate conditions.

13. 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**.

14. Let the applicant- **Satya Pratap @ Tinku** 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.

15. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

16. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

17. 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 :- 7.12.2023

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