

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13529 of 2023

Applicant :- Tillu

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

Counsel for Applicant :- Ramendra Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. In compliance of the order dated 17.11.2023, Circle officer of the Police, Sitapur is present in the Court today.
2. Personal affidavit filed by Shri Sushil Singh, C.O. City, Sitapur is taken on record. The explanation provided therein appears to be genuine and the same is accepted. He need not to remain present before this Court in future unless called for.
3. Learned A.G.A. informs that now the instructions have been furnished by the appropriate authority along with up-to-date case diary and the charge sheet in this case has also been submitted.
4. Heard learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.
5. This bail application has been moved by the applicant- **Tillu** for grant of bail, in Case Crime No. 566 of 2020, under Sections 147, 323, 504, 506, 427 and 304 I.P.C. P.S.Ramkot, District Sitapur, during trial.
6. Learned counsel for applicant while pressing the bail application submits that the applicant has falsely been implicated in this case and he has not committed any offence as claimed by the prosecution.
7. It is further submitted that general role of assault with '*lathi-danda*' has been attributed to all the accused persons named in the F.I.R. by the informant and by all the prosecution witnesses including alleged injured witness, namely, Amit Dixit in their statements recorded under Section 161 Cr.P.C. and no specific role has been assigned to the applicant or any other co-accused person.
8. It is also submitted that no recovery of any weapon of assault has been effected from the applicant and the sticks are alleged

to have been found by the Investigating Officer at the place of alleged occurrence. It is also submitted that even if the story of the prosecution is taken on its face value, it could not be ascertained as to who amongst the accused persons were the author of the fatal injuries.

9. It is further submitted that similarly placed co-accused persons, namely, Manish and Chhotu Verma @ Chhotu Rajput as well as Ram Babu have been released on bail by coordinate Benches of this Court as well as by this Court, vide orders dated 02.09.2021, 23.03.2021 and 14.06.2021 passed in Criminal Misc. Bail Applications Nos. 9370 of 2021, 3616 of 2021 and 2663 of 2021, respectively.

10. It is also submitted that the applicant is not having any criminal antecedents and is detained in this case in jail since 14.12.2020 and there is no apprehension that after being released on bail he may flee from the course of law or may otherwise misuse the liberty.

11. Learned A.G.A. on the other hand vehemently opposes the prayer for bail of the applicant on the ground that he has committed an heinous offence and having regard to the nature of the offence and the manner in which the offence has been committed, he is not entitled to be released on bail, however he could not confront the submissions of learned counsel for applicant with regard to the fact that co-accused Manish, Chhotu Verma @ Chhotu Rajput and Ram Babu, the role of whom in the alleged commission of crime is identical to the role of applicant has been released on bail and these orders has not been challenged at any higher forum.

12. Having heard learned counsel for parties and having perused the record it appears that initially the F.I.R. against the applicant and other co-accused persons was lodged under Sections 147,323, 504,506 and 427 I.P.C, however, subsequently on the death of injured Dheeraj on 13.12.2020, the case was converted under Section 304 I.P.C. also. All accused persons named in the F.I.R. has been assigned identical role of assaulting the deceased as well as injured Amit Dixt with lathi danda and no specific role of any kind has been attributed to any accused person. Three injuries of fatal nature has been received by the deceased on his head. Co-accused persons, namely, Manish, Chhotu Verma @ Chhotu Rajput and Ram Babu have been released on bail by coordinate Benches of this Court as well as by this Court and it has been admitted on behalf of the State that the role of the applicant is identical to the role of co-accused Ram Babu, who has been released on bail and that order has not been challenged anywhere. The

applicant is in jail in this matter since 14.12.2020 and is not carrying any criminal history.

13. Having regard to the over all facts and circumstances of the case and keeping in view the submissions made by learned counsel for the applicant I find substance in the submissions of learned counsel for applicant only for the purpose of releasing the applicant on bail. The bail application is, thus, **allowed**.

14. Let the applicant - **Tillu** involved in the aforesaid 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.

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 by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression on the merits of the case.

Order Date :- 22.11.2023

Praveen