

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14082 of 2023

Applicant :- Yunus

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

Counsel for Applicant :- Nisha Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Nisha Srivastava, learned counsel for the applicant, Sri Amitabh Chaturvedi, learned A.G.A. for the State and Ms Sumedha Sen, learned counsel for the informant and perused the records.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.272 of 2023, under Sections 147, 148, 149, 336, 342, 356, 323, 506, 307 I.P.C., registered at Police Station Kursi, District Barabanki.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 25.09.2023 against 10 persons, including the applicant, alleging that accused persons had assaulted the informant and his family members at 7 pm, although the narration does not make a mention of the date of the incident. At the bottom of the narration, the date of complaint is mentioned as 24.09.2023 and the FIR has been registered at 02:28 Hours at 29.5.2023.
4. In the affidavit filed in support of bail application, it has been stated that the applicant is innocent, he has no criminal history and he has been falsely implicated in the present case, which is evident from the fact that the applicant has lodged an FIR No.271 of 2023 in Police Station Kursi District Barabanki precisely at 19:00 Hours on 24.09.2023. Aforesaid FIR No.271 of 2023 has been lodged under Sections 323, 504, 506 IPC against one Kallu @ Maaz stating that he had abused and assaulted the applicant.
5. Learned A.G.A. and learned counsel for the informant have

opposed the bail applicant and they have submitted that presence of the applicant at the spot of occurrence could not be doubted as several persons have injured and they all have stated that the applicant's involvement in commission of the offence. They have further submitted that there may be some error in recording the name of the informant of FIR No.271 of 2023 and it may not be conclusive of the applicant's presence in the police station at the time of occurrence as the year of birth of the complainant of FIR No.271 of 2023 is mentioned as 1988, from which applicant's age comes to somewhere around 35 years whereas the applicant claims himself to be 74 years of age.

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

7. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that applicant's presence at the police station at the time of alleged incident is *prima facie* established from the fact of lodging of the FIR No.271 of 2023 by him which bears his thumb impression also; the year of birth of FIR No.271 of 2023 would not be conclusive, as there is nothing on record to indicate that that year was told by whom and whether any document regarding the year of birth of the applicant was also produced or not; that the applicant is 70 years of age having previous criminal history and he is languishing in jail since 30.10.2023 and without making any observation, which may affect the merits of the case, I am of the view that the aforesaid facts are sufficient for making out a case for enlargement of the applicant on bail in the aforesaid crime.

8. Accordingly, this bail application stands **allowed**.

9. Let the **applicant-Yunus** be released on bail in aforementioned 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 :- 30.11.2023
prateek