

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14155 of 2023

Applicant :- Garib @ Garibe @ Kedari Lal

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

Counsel for Applicant :- Niraj Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Heard Shri Niraj 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- **Garib @ Garibe @ Kedari Lal** for grant of bail, in Case Crime No. 259 of 2023, under Sections 147, 149, 308, 323, 304, 506 IPC, Police Station Rampur Mathura, District Sitapur, during trial.
3. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication and the manner in which the incident is shown to have been occurred is highly improbable and could not be believed.
4. It is further submitted that even if the case of the prosecution is taken on its face, it will emerge that the informant as well as the deceased and their other associates had entered into various houses of the village, in order to commit theft in the night and when they entered in the house of the village Pradhan the villagers assemble and started assaulting them with 'lathi-danda' and thus as the incident was of night the deceased, informant or any other associate of them may not be in a position to witness as to who has assaulted them.
5. It is further submitted that it was impossible for informant to have identified the assailants as a large group of persons appears to have gathered and the informant, deceased and other thieves were assaulted.
6. It is also submitted that the informant as well as the deceased were having a long list of criminal cases pending against them and also that identically placed co-accused, namely, Shubham Singh has been granted bail by a Coordinate Bench of this

Court, vide order dated 2.11.2023 passed in Crl. Misc. Bail Application No. 12910 of 2023.

7. It is further submitted that the applicant is in jail in this case since 18.9.2023 and he is not having any criminal history. Charge sheet in this case has already been submitted 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.

8. Learned A.G.A., however, opposes the prayer for bail but could not dispute the other factual submissions made by the learned counsel for the accused-applicant.

9. Having heard learned counsel for the parties and having perused the record, it is transpired that the incident is of night. It is admitted by the informant that he along with the deceased and other persons had gone to the village of the applicant for the purpose of committing theft and after searching many houses they entered into the house of village Pradhan, they were overpowered by the villagers and were also assaulted. The defence of the applicant appears to be that a large crowd was assembled and thieves were being assaulted and the informant was not in a position to identify as to who have assaulted, more-so incident is of night. Identically placed co-accused, namely, Shubham Singh has been granted bail by a Coordinate Bench of this Court. The applicant is in jail in this case since 18.9.2023 and he is not having any criminal antecedent. Charge sheet in this case has already been submitted. His presence may be secured before the trial court by placing adequate conditions.

10. 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**.

11. Let the applicant- **Garib @ Garibe @ Kedari Lal** 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.

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

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

14. 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 :- 6.12.2023

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