

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14735 of 2023

Applicant :- Ashok Kumar

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

Counsel for Applicant :- Smriti

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard Smriti, learned counsel for the applicant, Shri Rajesh Kumar Singh, learned AGA-I for the State and perused the record.
2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.254 of 2021, under Sections 323, 325, 304, 504, 506 I.P.C., Police Station Sandi, District Hardoi.
3. It is contended by learned counsel for the applicant that FIR has been lodged making allegation that four persons including the applicant have assaulted with lathi as there was enmity with regard to fetch water from Government Hand pump and altercation took place on the date of occurrence. It has been submitted that post mortem report indicates that deceased had received one lacerated wound present on the head, and death was caused due to coma and ante mortem head injury.
4. Learned counsel submitted that after looking to the version of FIR, it is clear that general allegation of assault has been levelled against four persons but it is not mentioned as to who caused the said injury. The statement of the complainant as well as injured Hem Singh, Hemrani and Khushiram, all of them have assigned general role to the accused. It is submitted that utmost the case would fall within section 304 part II IPC because both parties have quarreled together and incident took place out of sudden provocation.
5. Learned counsel further contended that co-accused Asha Devi has been granted bail by coordinate Bench of this Court in Criminal Misc. Bail Application No.11430 of 2023 and the case of the applicant is at par so far as other factual aspects is concerned except that she is a lady. The applicant has no criminal history. The applicant is in jail since 25.05.2023.
6. Learned AGA opposed the prayer for bail and submitted that single injury is found on the person of the deceased and general allegation is levelled against four persons including the applicant as such bail is liable to be rejected.
7. Without expressing any opinion on the merits of the case and after hearing learned counsel for the parties and

considering the argument that single injury caused to the deceased is not specified to the applicant rather general allegation has been made against the applicant therefore, I am of the opinion that the applicant is entitled to be released on bail.

8. Let the applicant, **Ashok Kumar**, be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

9. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The Trial Court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 14.12.2023

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