Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 15090 of 2023

Applicant :- Ramnarayan Alias Bablu
Opposite Party :- State Of U.P. Thru. Secy. Home, Lucknow,
Counsel for Applicant :- Pranjal Krishna
Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Learned AGA informs that he has procured complete instructions in the matter along with upto date case diary.

2. Heard Shri Pranjal Krishna, learned counsel for the applicant as well as learned AGA for the State and perused the record.

3. This bail application has been moved by the accused/applicant- **Ramnarayan Alias Bablu** for grant of bail, in Case Crime No. 128 of 2023, under Sections 147, 148, 149, 323, 504, 506, 452, 352, 427, 325, 308 and 304 IPC, Police Station Subeha, Barabanki, during trial.

4. 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 against 25 accused persons, general role of assault with 'Lathi, Danda, Kulhari, Farsa and Banka' has been assigned to all the accused persons named in the FIR.

5. It is further submitted that in the FIR co-accused persons Rajesh and Arun has been assigned the role of carrying 'Farsa', however, in the statement of the injured witnesses, namely, Shyam Lal, Kamini, Shiv Kumar, Ram Kumar, Ram Bahadur, Radha, Mata Km. and Sandeep Kumar, initial assault has been attributed to all the accused persons, named in the FIR, however, specific role of assault on Ram Kishroe with 'Lalthi-Danda' has been assigned to accused Rajesh Kumar, applicant and applicant and the role of assault on deceased- Vinay Kumar Gautam with 'Lathi- Danda' has been attributed to accused persons Rajesh, Raja Ram, Arun Kumar, Vinod Kumar with specific role of assaulting the deceased on his head with 'Lathi' has been assigned to accused Rajesh Kumar. It is also stated that the role of assault with 'Lathi-Danda' on injured Shiv Kumar has been assigned to co-accused persons Rajesh, Brijesh and Vinod. Thus no specific role or over act has been assigned

to the instant applicant.

6. It is further submitted that in the alleged assault given by the accused persons grievous injuries are shown to have sustained by the deceased Vinay Kumar as well as by injured Shiv Kumar, however, the injured Shiv Kumar in his statement recorded under Section 161 Cr.P.C. has not assigned any over act or specific role to the instant applicant and the role of the assault on deceased Vinay Kumar Gautam has been assigned to co-accused Rajesh, Raja Ram, Arun Kumar and Vinod Kumar with specific role of assault on the head of the deceased with a 'lathi' to co-accused Rajesh. Thus, even if the case of prosecution is believed as it is the applicant at the most may be presumed to be present in the unlawful assembly and may only be accused of vicarious liability.

7. It is further submitted that other injured persons have sustained simple injuries except the deceased - Vinay Kumar Gautam who has sustained a fracture of parietal bone, Ram Kishore who has sustained fracture of left 'ulma' and Shiv Kumar Singh who is shown to have admitted in the hospital and specific role of assault to these persons has not been levelled against the applicant by these injured persons.

8. It is also submitted that the prosecution story prima faice appears to be suspicious, as the Investigating Officer has exonerated Mahesh Kumar, Tinku, Sunil Kumar, Ram Dularey, Satyanam, Ankit, Santosh Kumar and Phoolbadan who were named in the FIR but against them charge sheet has not been submitted.

9. It is also submitted that there is a cross version of the incident wherein the FIR has been lodged by Amar Nath against 11 named persons under Sections 452, 323, 504, 506, 34 IPC, which was registered as Case Crime No. 126/2023 at Police Station Subeha, Barabanki and which party was aggressor could only be known after full fledged criminal trial. The applicant is not having any criminal history. He is detained in prison since 17.05.2023 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.

10. It is further submitted that identically placed co-accused persons, namely, Jag Prasad, Chhotey Lal, Paridin, Shiv Prasad as well as Shri Ram and Arun @ Arun Kumar to whom role of assault to deceased was attributed has been released on bail this Court as well as by the Coordinate Bench of this Court, vide orders dated 17.10.2023, 18.11.2023, 30.11.2023, 13.12.2023 and 15.12.2023 passed in Crl. Misc. Bail Application Nos.

10819 of 2023, 13598 of 2023, 14104 of 2023, 14678 of 2023 and 14400 of 2023, respectively.

11. Learned A.G.A. on the other hand opposes the prayer of bail of the applicant on the ground that the applicant and other co-accused persons have assaulted many persons, out of whom, one died and other have sustained grievous injuries and therefore, he is not entitled to be released on bail.

12. Having heard learned counsel for the parties and having perused the record, it is reflected that in the First Information Report general role of assault with 'Lathi, Danda, Kulhari, Farsa and Banka' has been assigned to 25 named accused persons. About 10 persons including the deceased- Vinay Kumar Gautam is said to have sustained injuries, however, the injuries on the person of deceased- Vinay Kumar Gautam and informant- Ram Kishore have been found grievous while the general condition of another witness, namely, Shiv Kumar is shown to be poor. Other injured persons have sustained simple injuries. Injured persons, namely, Shyam Lal, Kamini, Shiv Kumar, Ram Kumar, Ram Bahadur, Radha, Mata Km. and Sandeep Kumar in their statements given to the Investigating Officer has attributed the specific role of assault on informant Ram Kishroe to Rajesh Kumar, Pankaj and applicant. But informant Ram Kishore in his statement has not assigned any specific role of assault on him by the applicant. Co-accused Rajesh, Raja Ram, Arun Kumar and Vinod Kumar are shown to have assaulted the deceased- Vinay Kumar Gautam with specific role of assaulting the deceased on his head has been assigned to co-accused Rajesh. Co-accused persons Rajesh, Brijesh and Vinod have also stated to have assaulted the injured Shiv Kumar with 'Lathi', thus no specific role of assault on deceased has been attributed to the instant applicant. There is a cross version of the incident and FIR of which has been lodged by one Amar Nath and it has been submitted that the charge sheet has also been submitted therein. Injured/ deceased- Vinay Kumar Gautam has sustained two injures on his skull which may only be attributed to co-accused Rajesh. The applicant is in jail in this case since 17.05.2023 and he is not having any criminal history. Charge sheet has already been submitted and his presence may be secured before the trial court by placing adequate conditions. Similarly placed co-accused persons, namely, Jag Prasad, Chhotey Lal, Paridin, Shiv Prasad as well as Shri Ram and Arun @ Arun Kumar have been granted bail by this Court as well as by the Coordinate Bench of this Court.

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- **Ramnarayan Alias Bablu** 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 :- 22.12.2023
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Digitally signed by :-
MOHD UMAR KHAN
High Court of Judicature at Allahabad,
Lucknow Bench