

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 15155 of 2023

Applicant :- Ram Manoj Kumar

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

Counsel for Applicant :- Pranjal Krishna

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Learned A.G.A. informs that he has procured complete instructions in the matter including upto date case diary of the case and charge sheet in this case has been filed.

2. Heard Shri Pranjal Krishna, learned counsel for the applicant as well as learned A.G.A. for the State and perused the case diary submitted by the State.

3. This bail application has been moved by the accused/applicant- **Ram Manoj Kumar** for grant of bail, in Case Crime No.0128 of 2023, under Sections 147, 148, 149, 323, 504, 506, 452, 352, 427, 325, 308 and 304 I.P.C., 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 F.I.R., 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 F.I.R.

5. It is further submitted that in the F.I.R. 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 F.I.R., however, specific role of assault on Ram Kishore with 'Lathi-Danda' has been assigned to accused Rajesh Kumar, Bablu and Pankaj 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 overt act has been assigned to the instant applicant.

6. It is further submitted that in the alleged assault grievous injuries are shown to have been sustained by Vinay Kumar (deceased) and Shiv Kumar and injuries to these persons are stated by the injured witnesses to have been caused by Rajesh Kumar, Bablu Pankaj, Raja Ram, Arun Kumar and Vinod Kumar and a specific role of assaulting the deceased with 'Lathi' has been attributed to co-accused Rajesh. Thus, even if the case of the prosecution is believed as it is, the applicant at the most may be stated to be present in an 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 the role of assault to these persons or to another injured persons has not been levelled against the applicant.

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 against whom charge sheet has not been submitted and they were named in the F.I.R. Identically placed co-accused person of the alleged crime, namely, Jag Prasad has been released on bail by this Court, vide order dated 17.10.2023 passed in Criminal Misc. Bail Application No.10819 of 2023.

9. It is also submitted that there is a cross version of the incident wherein the F.I.R. has been lodged by Amar Nath against 11 named persons under Sections 452, 323, 504, 506, 34 I.P.C., 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 25.04.2023 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. 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.

11. 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 Kishore to co-accused Rajesh Kumar, Bablu and Pankaj. 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 has been attributed to the instant applicant. There is a cross version of the incident and F.I.R. 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 injuries on his skull. which may only be attributed to co-accused Rajesh. Identically placed co-accused person of the alleged crime, namely, Jag Prasad has been released on bail by this Court. The applicant is in jail in this case since 25.04.2023 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.

12. 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**.

13. Let the applicant- **Ram Manoj Kumar** 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.

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

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

16. 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 :- 21.12.2023

Anupam S/-