

Court No. - 8

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1113 of 2024

Applicant :- Rajesh Vikram Singh

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

Counsel for Applicant :- Ravi Kant Pandey

Counsel for Opposite Party :- G.A., Arun Sinha, Ram Chandra Singh

Hon'ble Rajeev Singh, J.

1. Heard Sri H.G.S. Parihar, Senior Advocate assisted by Sri Ravi Kant Pandey, learned counsel for the applicant, Sri Piyush Kumar Singh, learned A.G.A for the State of U.P., Sri Arun Sinha, learned counsel for the complainant and perused the record.

2. The present bail application has been filed on behalf of the applicant in Case Crime No.17 of 2018, under Sections 147, 148, 149, 307, 302, 34, 120-B I.P.C. & Section 3/4 Explosive Act, Police Station - Jagdishpur, District - Amethi, with the prayer to enlarge him on bail.

3. Learned counsel for the applicant submits that this is second bail application moved on behalf of the applicant as first bail application was allowed by this Court on 23.9.2021, and in pursuance of the aforesaid bail order, he was enlarged on bail on 28.9.2021, thereafter, said bail order was challenged before the Hon'ble Apex Court in Criminal Appeal No.1168 of 2023 (Ansar Ahmad Vs. State of U.P. & Anr.) and same was allowed by judgment and order dated 18.4.2023, by which bail order granted by this Court was set aside and thereafter, applicant surrendered before the trial court on 8.5.2023 and sent to jail.

4. Learned counsel for the applicant submits that applicant has been falsely implicated in the present case and prosecution has relied on statement of two persons namely, Prem Chandra and Akmal and tried to develop a case that on 17.1.2018 one cricket match was organized, in which, the applicant was present alongwith other co-accused persons, in the said match, Premchand and Akmal were also present and behind the

curtain they heard the conversation of the accused and other persons about their planning of eliminating Ashfaq. During the course of trial of Premchand and Akmal, they also stated that after hearing the conversation between the applicant and other accused persons they immediately went to the house of the informant of the present case and narrated the entire conversation to him. Learned counsel for the applicant also submits that F.I.R. is ante timed, as per the prosecution case the incident was taken place at 11:30 A.M. on 30.1.2018 and the injured Amit Chaubey & Satai and other co-accused were caught on the spot by public and they were beaten by the public at large, thereafter, they were shifted to the hospital, where doctor examined Satai at about 3:30 P.M., and from his possession some live cartridges and Rs.247700 were recovered and he immediately prepared a memo and submitted to the police, thereafter, Sub Inspector, visited the hospital and prepared recovery memo. As per the prosecution case, prior to giving the information by the doctor, there was no such information about the recovery of money from Satai.

5. Learned counsel for the applicant submits that wrong detail was given by the prosecution related to the criminal antecedents, as in six cases no any involvement of the applicant was found either in the F.I.R. or in the police report, in 13 cases, he has already been acquitted and in four cases, closure report was filed by the Investigating Officer due to lack of evidence and in one case he has been convicted, in which, appeal is pending and the sentence has been stayed by the appellate court. He also submits that after lodging of the present case one case of gangster was also initiated against the applicant which is still pending. He also submits that earlier bail was granted to the applicant by this Court on 23.9.2021 and the said order was challenged before the Apex Court and bail order was set aside vide judgment dated 18.4.2023 with liberty to apply for bail after examination of all the eye witnesses or other material witnesses.

6. Learned counsel for the applicant submits that all the witnesses of fact have already been

examined including eye witnesses and injured witnesses. He also submits that two charge sheets have been filed by the Investigating Officer and total number of witnesses are shown as 37 and till today, only seven witnesses has been examined. He further submits that applicant was enlarged on bail in pursuance of bail order of this Court on 28.9.2021, thereafter, he surrendered before the trial court in pursuance of the direction of Hon'ble Apex Court vide order dated 18.4.2023 but there is no evidence or allegation that applicant misused the liberty of bail. He further submits that P.W.1. who is claiming himself as an eye witness categorically stated before the trial court that Prem Chandra and Akmal never met him on 17.1.2018 for giving information about the conversation between applicant and other accused persons which was heard by them during the course of cricket match but he stated that they reported about the conversation between the applicant and other accused persons after incident of the present case, which was taken place on 30.1.2018. He further submits that in the deposition of Prem Chandra (P.W.3) and Akmal (P.W.5), they also stated that on the date of incident, they visited the house of the informant and narrated the conversation as heard from applicant and other co-accused persons, where Mohd. Haroon was also present but Mohd. Haroon (P.W.2) had denied the averments as made by P.W.3 and P.W.5. He lastly submits that in the present case total confinement period of applicant from 3.2.2018 is about three years, therefore, applicant is entitled for bail.

7. Mr. Arun Sinha, learned counsel for the complainant vehemently opposed the prayer of the applicant and submits that informant was the eye witness and two persons, namely Amit Chaubey and Satai were arrested from the spot as they were crying when they were being assaulted by the public about their conduct of firing then they were saying that incident was executed on the behest of the applicant and the statement of Amit Chaubey was recorded under Section 161 Cr.P.C., in which, he stated that he is working as a watchman at the house of the applicant and on 30.1.2018 in the morning at about 9:30 a.m. he

heard from the members of the house of the applicant that Ashfaq Ahmad is coming towards block, then me and Satai by one Apache and Super Splendor motor cycle alongwith other persons went to Block Jagdishpur and after waiting some time, black Safari came in front of Vijay Bank and Satai and his associates reached near the vehicle and started throwing granade and opened fire with the intention to kill Ashfaq Ahmad, Ashfaq and other persons started running to save their lives. Learned counsel for the complainant also submits that Razai one of the injured witness who was driver of the vehicle became hostile due to influence of the applicant and he has not supported the prosecution version and stated that he is in position to identify the accused persons. He also submits that applicant is already a convicted person for the offence under Section 302 I.P.C. and Criminal Appeal No.497 of 2008 is pending before this Court, and as he was on bail and misused the liberty of bail, therefore, he is not entitled for bail.

8. Learned A.G.A. also submits that sufficient evidences are found against the applicant and the informant who is an eye witness also supported the prosecution version and stated that accused persons who were arrested from the spot were telling the name of the applicant for hatching a conspiracy of the crime to eliminate the son of the informant, therefore, he is not entitled for bail.

9. Considering the rival submissions of learned counsel for applicant, learned A.G.A., material available on record, contents of F.I.R., other relevant documents, nature of offence as well as facts and circumstances of the case, it is evident that P.W.1 who is claiming himself as an eye witness in his deposition stated that he was in vehicle, i.e., Safari alongwith his son and two others and suddenly accused persons started bombing and firing then they tried to save themselves by running away and he went behind a *gumti*, thereafter, several persons came on the spot and caught two persons, namely, Amit Chaubey & Satai and when asked by people, they requested to not beat them as they were sent by the applicant and his brother Rakesh Vikram Singh

to Kill Ashfaq Ahmad (son of the informant). As it is an undisputed fact that all witnesses of facts have already been examined and one of the injured witness Razai has denied to identify the accused persons and there is an allegation against the applicant for conspiracy based on the statement of two witnesses, namely, Prem Chandra and Akmal but there is contradiction in the statements of Prem Chandra, Akmal and the informant. In pursuance of earlier order, Sessions Judge, Sultanpur also sent his report dated 16.3.2024 and informed that case property is not available, therefore, cross examination of P.W.8 (S.I., Sri Jitendra Singh) could not be completed. As the applicant is also convicted in the present case and after investigation, his involvement is found, therefore, no case for bail is made out and prayer for bail is liable to be rejected.

10. In view of the above, the present bail application is hereby **dismissed**.

11. Trial court is directed to conclude the trial expeditiously without giving any unnecessary adjournment to either of the parties.

12. Observations made by this Court will not affect the proceedings of trial.

Order Date :- 26.4.2024
Gaurav/-