

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 4834 of 2024

Applicant :- Shiva Awasthi @ Golu Awasthi

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

Counsel for Applicant :- Neeraj Singh

Counsel for Opposite Party :- G.A.

Hon'ble Shamim Ahmed,J.

1. Heard Sri Neeraj Singh, learned counsel for the applicant and Ms. Ankita Tripathi, learned A.G.A. for the State.
2. The applicant-Shiva Awasthi @ Golu Awasthi, has moved the present bail application seeking bail in Case Crime No. 134 of 2020, under Sections 302 and 201 I.P.C., Police Station Ajgain, District Unnao.
3. The F.I.R. was lodged on 19.05.2020 by the complainant against five persons namely Kishan Rawat, Shiva Awasthi alias Golu Awasthi (the present applicant), Roshan Awasthi, Rinku Rawat and two other unknown persons stating therein that the co-accused, Kishan Rawat along with other accused persons abducted his father namely Bhaiya Lal alias Neel Singh in his Bolero Geep, which incident was seen by one Sanjay Singh who objected the abduction of father of the complainant, on which co-accused Roshan Rawat informed that they were taking him for entering into a compromise at Chauki Raja Bagh, thereafter, all the accused persons administered liquor to the father of complainant and took him to the house of Rambabu Awasthi alias Babul Awasthi, where he was beaten mercilessly with danda and wooden logs, on account of which he died, thereafter, they hide the dead body of the father of complainant in the house of co-accused Rambabu Awasthi.
4. Learned counsel for the applicant submits that applicant is innocent and has falsely been implicated in the present case. No such incident took place as alleged by the prosecution. The dead body of the deceased was recovered from the house of one Rambabu Awasthi. The F.I.R. was lodged

against five persons, but only the applicant and co-accused Suraj Awasthi alias Bhura have been charge sheeted, which shows that investigation was conducted in improper manner. The vehicle used in the crime belongs to Kishan Rawat, whose name has been dropped from the charge sheet. There is family dispute between the family of the deceased and the family of Kishan Rawat and prior to the incident an altercation took place between the family members of Kisan Rawat and son of the deceased. Despite there being sufficient evidence the names of Kishan Rawat and his sons have been dropped from the charge sheet who were the main accused. The applicant has no concern with the alleged incident. There is no active or overt role of the applicant in the case diary and only general role has been assigned to him. There is no eye witness of the incident of murder and so far as witness of abduction is concerned main role has been attributed to the co-accused Kishan Rawat, but he and his sons have not been charge sheeted. The applicant has no previous criminal antecedent to his credit and is in jail since 27.05.2020, without any guilt.

5. Learned A.G.A. submits that when the deceased was abducted it was seen by the eye witness Sanjay Singh. In the post mortem of the deceased four injuries were found on her face, head and chest, which were caused by hard and blunt object. In their Majeed statements, complainant and Sanjay Singh, they have stated that after the incident they came to know that after abduction of the deceased the accused persons were abusing him and were taking him from the house of Kishan Rawat to the house of applicant, which was witnessed by Ajay Singh and Monu Singh, who in their statement have stated that they had seen the accused persons taking the deceased to the house of Shiva Awasthi alias Golu Awasthi (present applicant). On the perusal of C.D.R. of talk occurred between Roshan Rawat and applicant, it was found that a dispute was occurred previously between the complainant and Roshan Rawat on account of taking much money of cigarette at a shop, and a dispute was also arose between the families of deceased and the applicant on account of an incident of theft of LED television, for which while the deceased was abusing in front of the house of the co-accused Suraj Awasthi alias Bhura in drunken condition on the date of incident, then Suraj

Awasthi alias Bhura called him into his house where both the applicant and co-accused Suraj Awasthi alias Bhura beaten him mercilessly by danda and wooden logs, on account of which the deceased died. Thus, prima facie there is sufficient evidence against the applicant, therefore, he should not be released on bail.

6. Considering the rival submissions of the parties, the nature of allegations made in the F.I.R., the nature and gravity of the offence, the complicity of accused-applicant and all other facts and circumstances of the case and considering that statements of complainant and other independent witnesses, I find no good ground to release the applicant on bail.

7. In view of the above, the bail application of the applicant is **rejected**.

8. Being a peculiar case, the trial court is directed to make its endeavour to conclude the trial expeditiously, if possible, within six months from the date of production of certified copy of this order, without granting any unnecessary adjournments to either of the parties except if there is any order of the Higher Court staying the proceedings of case.

9. Let a copy of this order be sent to the court below for necessary compliance.

Order Date :- 15.7.2024

Arvind