

Court No. - 15

Case :- CRIMINAL APPEAL No. - 2238 of 2024

Appellant :- Shatrodhan @ Shatrohan And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko And Another

Counsel for Appellant :- Naveen Kumar Pandey

Counsel for Respondent :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Rejoinder affidavit filed by learned counsel for the applicant, is taken on record. The State in its counter affidavit has enclosed a communication, received by the informant/injured, however, despite service, he is not represented.

2. Heard Shri Naveen Kumar Pandey, learned counsel for the appellants as well as learned A.G.A. for the State, pertaining to the prayer of bail of the appellants and perused the record.

3. The instant criminal appeal under Section 14(A)(2) S.C./S.T. Act has been filed by the appellants/**Shatrodhan @ Shatrohan** and **Tilak Ram @ Tikku** for grant of bail and to set-aside/quash the impugned judgment and order dated 25.06.2024, passed by the learned Special Judge S.C./S.T. Act, Gonda in Bail Application No. 1093 of 2024 (Shatrodhan @ Shatrohan & another vs. State of U.P.), arising out of Case Crime No. 145 of 2024, under Sections 147, 304, 323, 504, 506 I.P.C. and Sections 3(1)(Da)(Dha), 3(2)(v) & 3(2)(va) of the S.C./S.T. Act, Police Station Katra Bazar, District Gonda, during trial.

4. Learned counsel for the appellants while pressing the bail application, submits that it is a case of false implication. The F.I.R., which has been lodged by one of the injured, namely, Chotu, general role of assault has been assigned to all the accused persons named therein and the incident is shown to have occurred all of a sudden without there being any pre-meditation and, therefore, no common intention may be attributed to the accused persons.

5. It is further submitted that Chotu, Ajay @ Nanga, Sukai and Mitthu @ Shyama Devi are shown to have sustained injuries while the injuries pertaining to injured Shyama Devi and Chotu were insignificant, the injury sustained by Ajay @ Nanga appears to be the result of the disease of teeth with which he

was suffering and and significantly deceased Sukai was also examined and only one visible injury of the nature of contused swelling has been found on right side of his cheek while complaint of pain has been made by him on chest as well as on the top of head.

6. Highlighting above, it is vehemently submitted that, as is evident from the injury report of deceased Sukai, at the time of his medical examination on 30.04.2024, he had not sustained any fatal injury and it appears that after his medical examination on 30.04.2024 somehow he had sustained any injury somewhere else, which has been attributed to the incident.

7. In this regard, learned counsel for the appellants has drawn the attention of this Court towards the postmortem report of the deceased Sukai as well as his statement recorded under Section 161 Cr.P.C., and submits that in normal course the injury sustained by the deceased Sukai may not have resulted in his death and it is only on account of that he chooses not to be treated in a hospital or by a qualified doctor, the same has become fatal. It is vehemently submitted that it is admitted by injured/deceased Sukai in his statement recorded under Section 161 Cr.P.C. that he is being treated by a local pharmacist, therefore, the death of the deceased may not be the result of any injury rather that is the result of the negligence of the deceased himself as he chooses not to be treated as higher center/doctor.

8. It is further submitted that even if the case of the prosecution is taken on its face, it may not be evident or ascertained at this stage of the case as to who from amongst the accused persons was the author of the single fatal injury, which has caused the laceration of the liver of the deceased, which had ultimately resulted in his death.

9. It is next submitted that the appellants are in jail in this case since 23.05.2024 and he is not having any criminal antecedents and there is no apprehension that after being released on bail he may flee from the course of law or may otherwise misuse the liberty.

10. Learned A.G.A. on the other hand submits that it is not only the deceased Sukai but one other person Ajay @ Nanga, who has been brutally assaulted and having regard to the fact that the deceased has been subjected to brutally assaulted, the appellant is not entitled to be released on bail.

11. Perusal of the record would reveal that general allegations of assault with '*lathi, danda*' has been assigned to all the

accused persons including the appellants and no specific role of any kind has been attributed to them. Four persons are shown to have injured, two of them, namely, Chotu and Shyama Devi are shown to have sustained minor injuries while Ajay @ Nanga is shown to have sustained grievous injury. However, the doctor has noted in his medical examination report that the injury may be the result of severe dental disease with which the injured was suffering. Significantly only one visible injury is shown to have been sustained by the deceased Sukai at the time of his medical examination and the same was on the right side of cheek and he also complained of pain on his chest as well as on the top of his head. Interestingly, the deceased/injured Sukai was treated at home and in the postmortem report along with other injuries, fracture of two ribs and laceration of liver has been found, which appears to be the cause of his death. The submission of learned counsel for the appellants is that, at this stage, it may not be assessed as to who from amongst the accused persons was the author of the fatal injury and that the incident appears to have occurred all of a sudden and, thus, no common intention of the appellants with other accused persons may be inferred. Appellants are languishing in jail in this case since 23.05.2024 without criminal antecedents and the presence of the appellants may be secured before the trial court by placing adequate conditions. Thus, a case of bail is emerging in favour of the appellants and the impugned order passed by the court below is **set-aside** and the appeal filed by the appellants is **allowed**.

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 of the case, let the appellants- **Shatrodhan @ Shatrohan** and **Tilak Ram @ Tikku** involved in above-mentioned case, be released on bail on their furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

- (i) The appellants shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.
- (ii) The appellants shall cooperate in the trial sincerely without seeking any adjournment.
- (iii) The appellants shall not indulge in any criminal activity or commission of any crime after being released on bail.

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

14. Identity, status and residence proof of the appellants and sureties be verified by the Court concerned before the bonds are accepted.

15. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression on the merits of the case.

Order Date :- 29.8.2024

Praveen