

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12401 of 2024

Applicant :- Munna Yadav

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

Counsel for Applicant :- Atul Verma, Akhilendra Pratap Singh, Vinod Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan, J.

1. Heard Shri Atul Verma, learned counsel for the applicant and Shri Ran Vijay Singh, learned AGA for the State-respondents.
2. Rejoinder affidavit filed on behalf of the applicant is taken on record.
3. Learned counsel for the applicant submits that the present applicant has been falsely implicated and is in jail since 17.10.2024 in Case Crime No.294 of 2024 under Sections 103(1), 238, 61(2) BNS, police station Bijnaur, District Lucknow.
4. On account of prosecution story so narrated in the FIR, the informant Shivani went to police station Bijnaur alleging that in the morning of 06.10.2024, some unknown persons came to her house and took her husband Sandeep with them. The informant enquired from her neighbours that Sukhram, Abhishek, Munna Yadav (applicant) and one unknown lady posing as their mother have sold the land to one Master.
5. Learned counsel has further stated that subsequently, statement of mother of the deceased was recorded and she stated that husband of the informant (now deceased) was taken

away by some persons and his property was sold to the applicant, copy of the statement is annexed as Annexure no.3 to the application. Thus, it is evident that the present applicant is the purchaser to the property in question. He had nothing to do with the incident in question and he has been implicated in the present case only on the basis of Section 61(2) BNS. Learned counsel for the applicant has drawn attention of this Court towards Annexure no. CA-6 to the counter affidavit wherein as per the statement of one co-accused Pradeep Kumar the names of other main accused have been indicated as Abhishek and Sukhram and in such statement no allegation has been levelled against the present applicant. The only allegation levelled against the present applicant is that the incident in question has took place under the supervision of the present applicant. Therefore, there may not be any motive or intention of the present applicant to kill the deceased.

6. Learned counsel for the applicant lastly submitted that the applicant has no criminal history, therefore, the applicant is entitled to be enlarged on bail. He further submits that if the present applicant be enlarged on bail, he undertakes that he shall cooperate in the investigation proceedings and shall not misuse the liberty of bail. Further, the applicant shall abide by all terms and conditions of the bail order.

7. Learned AGA has, however, opposed the prayer for bail but could not dispute the submissions made by learned counsel for the applicant. He also submits that investigation is going on.

8. Having heard learned counsel for the parties and having perused the material on record, it transpires that the only allegation levelled against the applicant is that of presence of the applicant at the place of incident, the applicant has no criminal history, therefore, without entering into merits of the

issue; considering the arguments of learned counsel for the parties; contents and allegations of the FIR and undertaking of the applicant that he shall cooperate in the investigation proceedings and shall not misuse the liberty of bail, I find it appropriate to release the applicant on bail.

9. Accordingly, the bail application is **allowed**.

10. Let applicant- **Munna Yadav** be released on bail in the aforesaid case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the Court concerned with the following conditions:-

(i) The applicant shall file an undertaking to the effect that he / she shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him / her under Section 269 of the B.N.S., 2023.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 84 of B.N.S.S., 2023 is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him / her, in accordance with law, under Section 208 of the B.N.S., 2023.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 351 of B.N.S.S., 2023. If in the opinion of the trial court

absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him / her in accordance with law.

(v) The applicant shall not leave India without previous permission of the court.

(Rajesh Singh Chauhan, J.)

Order Date :- 19.12.2024
Arnima