

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13044 of 2024

Applicant :- Awdhesh

Opposite Party :- State Of U.P. Through Secretary, Home Department, Civil Secretariat, Lucknow

Counsel for Applicant :- Devendra Pratap, Saad Husain, Shashank Shekhar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan, J.

1. This case has been filed through E.mode, however, learned counsel for the applicant has provided photocopy of hard-copy of the memo of bail application along with its enclosures. The same is taken on record.

2. Heard Sri Shashank Shekhar Singh, learned counsel for the applicant and Sri Nikhil Singh, learned Additional Government Advocate-I for the State.

3. As per learned counsel for the applicant, the present applicant (Awdhesh) is languishing in jail since 15.11.2024 in Case Crime No.333 of 2024, under Sections 108, 115 (2) & 352 of Bharatiya Nyaya Sanhita, 2023 (henceforth referred to as the "B.N.S."), Police Station-Madhoganj, District-Hardoi.

4. Learned counsel for the applicant has submitted that the present applicant has been falsely implicated in this case as he has not committed any offence as alleged in the prosecution story.

5. Attention has been drawn towards the impugned First Information Report (in short F.I.R.) wherein the specific allegation has been levelled against one Anil Kumar and three unknown persons. In the F.I.R., the specific allegation of murder has been levelled against Anil Kumar, therefore, the F.I.R. has been lodged under Sections 103, 115 (2) & 352 B.N.S. While recording her statement under Section 180 B.N.S. the informant reiterated the earlier story but implicated the present applicant levelling allegation that the present applicant along with his father insulted the son of the informant by beating him through shoes and feeling shame on account of that incident he committed suicide.

6. Learned counsel for the applicant has stated that against accused Anil Kumar the final report has been filed but against the present applicant the charge-sheet has been filed under Section 108, 115 (2)& 352 B.N.S.

7. Learned counsel for the applicant has further stated that in the present case, prima-facie, there is no overt or positive act on the part of the present applicant to instigate or abet the victim to commit suicide and even if the prosecution story is considered on its face value, the deceased was himself aggressor of the incident as the deceased has beaten the son of the present applicant through Slipper in front of so many villagers, therefore, as to whether any offence under Section 108 B.N.S. is made out would be ascertained during the course of trial.

8. Learned counsel for the applicant has stated that the charge-sheet has been filed against the present applicant. There is no prior criminal history of any kind whatsoever against the present applicant. He has undertaken on behalf of the present applicant that the applicant shall not misuse the liberty of bail, if so granted by this Court, and shall abide by all terms and conditions of the bail order and shall cooperate with the trial proceedings properly.

9. On the other hand, learned Additional Government Advocate has opposed the prayer for bail of the present applicant by submitting that since the role of the present applicant was found in the commission of crime, therefore, he is not entitled for grant of bail, but he could not dispute the aforesaid factual contention of learned counsel for the applicant.

10. Having heard learned counsel for the parties and having perused the material available on record; considering the fact the present applicant is not named in the F.I.R.; the specific allegation of murder has been levelled against Anil Kumar; there is no criminal history of any kind whatsoever against the present applicant; the charge-sheet has been filed and the undertaking that the applicant shall not misuse the liberty of bail and shall abide by all terms and conditions of the bail order and shall cooperate with the trial proceedings properly and without expressing any opinion on merits of the case, I am of the view that the present applicant may be enlarged on bail.

11. Accordingly, the instant bail application is ***allowed***.

12. Let the applicant (Awdhesh) 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 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 under Section 229-A IPC/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 82 Cr.P.C./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, in accordance with law, under Section 174-A IPC/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 313 Cr.P.C./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 in accordance with law. The present applicant shall not leave the country without prior permission of the Court.

[Rajesh Singh Chauhan,J.]

Order Date :- 18.12.2024

Suresh/