

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 30625 of 2024

Applicant :- Firoz

Opposite Party :- State of U.P.

Counsel for Applicant :- A.C.Srivastava,Avnish Kumar
Srivastava,Rajat Chaudhary,Vinod Kumar Tripathi

Counsel for Opposite Party :- Adesh Kumar,G.A.

Hon'ble Ashutosh Srivastava,J.

Heard Sri A.C.Srivastava, learned counsel for the applicant, Sri Rajesh Kumar Singh, learned A.G.A. for the State Respondent and perused the material on record.

The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.955 of 2018, under Sections 147, 148, 452, 324, 307, 302, 504, 506, 34 IPC, Police Station Sardhana, District Meerut.

Learned counsel for the applicant submits that as per FIR, general role of assault has been assigned to 11 persons by knife and sword and due to injury Yameen died in the hospital and Jamshed and Mobin became grievously injured. He further submits that there is cross-case being Case Crime No. 0957 of 2018 under Sections 147, 148, 307, 324, 504, 506 IPC against Mohsin, Mohin, Mobin, Shamshad, Jamshed, Khursheed. Meharban, Hakmeen, Shadab and Inaam @ Sullhad injured in the present case. Meharban has penetrating wound of 1 cm x 1 cm present over lower abdomen anterior abdominal wall, another penetrating wound of about 2 cm x 1 cm present over poster lateral left side chest wall, injuries on lateral and medial aspect of left arm, chest and abdomen X-Ray was also advised. Inaam had complain of pain on left arm and swelling on forearm. Injury of Meharban was found fatal. Shahid and Dev @ Mehtab have been enlarged on bail vide order dated 08.07.2021. It is further submits that the bail order of Jumma, Hakmeen, Yaseen, Arshad and Firoz (applicant) have been cancelled by Supreme Court vide judgment dated 18.01.2022 in Criminal Appeal No.76 of 2022 arising out of Spl (Crl) No. 6329 of 2020 in Jaibunisha vs. Meharban & Another with observation that by a very cryptic and casual order, de-hors any coherent reasoning, bail order has been granted. High Court was not right in

allowing the applications for bail filed by the accused-respondents. Supreme Court has observed in Para 22 of the order as under:

"We have extracted the relevant portions of the impugned orders above. At the outset, we find that the extracted portions are the only portions forming part of the "reasoning" of the High court while granting bail. As evident from the judgments of this Court referred to above, a court deciding a bail application cannot grant bail to an accused without having regard to material aspects of the case such as the allegations made against the accused; severity of the punishment if the allegations are proved beyond reasonable doubt and would result in a conviction; reasonable apprehension of the witnesses being influenced by the accused; tampering of the evidence; the frivolity in the case of the prosecution; criminal antecedents of the accused; and a prima facie satisfaction of the Court in support of the charge against the accused.

While we are conscious of the fact that it is not necessary for a Court to give elaborate reasons while granting bail particularly when the case is at the initial stage and the allegations of the offences by the accused may not have been crystalised as such, an order de hors any reasoning whatsoever cannot result in grant of bail. If bail is granted in a casual manner, the prosecution or the informant has a right to assail the order before a higher forum. As noted in *Gurcharan Singh vs. State (Delhi Admn.)* 1978 CriLJ 129, when bail has been granted to an accused, the State may, if new circumstances have arisen following the grant of such bail, approach the High Court seeking cancellation of bail under section 439 (2) of the Cr.P.C. However, if no new circumstances have cropped up since the grant of bail, the State may prefer an appeal against the order granting bail, on the ground that the same is perverse or illegal or has been arrived at by ignoring material aspects which establish a prima facie case against the accused."

He further submits that Yameen has been enlarged on bail by this Court vide order dated 26.11.2021 in Criminal Misc. Bail Application No. 19439 of 2019. He further submits that Supreme Court has set aside the order on the ground of cryptic order passed and there is no bar to grant bail by a reasoned order. It is further submitted that nothing has been recovered from the possession of the applicant. It is further submitted that the applicant never absconded. There is cross-case. Both sides have received injuries. Injury of Meharban was fatal, who is aggressor has to be decided by the trial court after evidence. He also submits that bail order of Yameen has not been challenged.

He also submits that there is no possibility of the applicant of fleeing away from the judicial process or tampering with the witnesses and, in case, the applicant is enlarged on bail, the applicant shall not misuse the liberty of bail and the applicant is languishing in jail since 01.02.2022. It is further submitted that on the similar footing the co-accused Shadab @ Bhura and Dev Mahtab have been granted bail by the Court vide orders dated

08.04.2022 and 07.02.2025 passed in Criminal Misc. Bail Application No. 36555 of 2021 and Criminal Misc. Bail Application No. 45658 of 2024, therefore, the applicant is also entitled to be released on bail.

Per contra, learned A.G.A. has opposed the bail prayer of the applicant by submitting that applicant is named in the FIR and Yameen has died by the injury caused by the applicant and co-accused. Therefore, he is not entitled for bail.

Considering the facts and circumstances of the case, submissions advanced by learned counsel for the parties, case of applicant being distinguishable from the co-accused as well as grant of bail to co-accused Yameen, Shadab @ Bhura and Dev Mahtab, no recovery was made from the possession of the applicant as well as there being a cross case having grievous injury too to Meharban and perusing the material on record, without expressing any opinion on merit of the case the applicant is entitled for bail, let the applicant, **Firoz**, involved in aforesaid case crime be released on bail on his furnishing a personal bond and two local sureties each of the like amount to the satisfaction of the court concerned, subject to the following conditions:-

(i) The applicant shall file an undertaking to the effect that he will not tamper with the evidence and will not pressurize/intimidate the prosecution witnesses and will cooperate with the trial. The applicant 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 of the Indian Penal Code.

(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. 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 of the Indian Penal Code.

Order Date :- 12.8.2025

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