Court No. - 54

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 30447 of 2020

Applicant :- Devendra
Opposite Party :- State of U.P.
Counsel for Applicant :- Alok Sharma
Counsel for Opposite Party :- G.A.,Vipul Shukla

Hon'ble Dinesh Kumar Singh-I,J.

Counter affidavit has been filed and the same is taken on record.

Heard Sri Alok Sharma learned counsel for the applicant, Sri Himanshu Tiwari, Advocate holding brief of Sri Vipul Mishra, learned counsel for the informant and Sri B.A. Khan, learned A.G.A. for State and perused the record.

This application under Section 439 Cr.P.C. has been moved seeking bail in Case Crime No. 419 of 2020 under Sections 147, 148, 149, 323, 302, 307, 506 I.P.C. and 7 Criminal Law Amendment Act, Police Station Powayan, District Shahjahanpur, during the pendency of trial.

As per FIR, which has been lodged by Rajesh Kumar, the prosecution case is that when he was standing on his door on 06.05.2020 at about 10.30 A.M., the accused side including the applicant came there armed with various weapons, which are mentioned in the FIR and in the occurrence, the deceased Ramesh is said to have been fired by co-accused Om Prkash at his leg by which he had died and rest of the accused including the applicant has been assigned general role for assaulting the deceased in which three peerson have received minor injury. In post-mortem report the cause of death is shown to be shock and hemorrhage due to ante-mortem fire arm injury.

Submission made by the learned counsel for the applicant that said injury has been caused by Om Prakash by which the deceased has been died. The applicant has been assigned only general role. The applicant is not involved in any other criminal case. It is further argued that the co-accused Anuj has been granted bail on 20.10.2020 by Coordinate Bench of this Court passed in Crl. Misc. Bail Application No.29663 of 2020 and co-accused Som Dev and Het Ram have also been granted bail on 1.9.2020 by Coordinate Bench passed in 21378 of 2020. Co-accused Satya Dev @ Satya Pal has been granted bail by this Court vide order dated 23.11.2020, copy of the order is taken on

record and parity is claimed. The applicant is absolutely innocent and is languishing in jail since 16.5.2020. In case the applicant is released on bail he will not misuse the liberty of bail.

Learned AGA has opposed the prayer of bail, but has not controverted the aforesaid fact.

In view of above arguments, looking to the fact, taking into consideration the quantum of punishment, nature of offence and period of detention, without expressing any opinion on the merits, this case is found to be a fit case for bail.

Let the applicant Devendra involved in aforesaid crime be released on bail 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 that:-

1. The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

2. The applicant shall cooperate in the trial sincerely without seeking any adjournment.

3. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

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

Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Taking into consideration that Covid-19 is continuing and due to which certified copy would not be possible to be obtained by the applicant, therefore, if a copy of this order downloaded from the official website of Allahabad High Court and self attested by the counsel for the applicant is placed before the Court, the same would be entertained.

Order Date :- 26.11.2020
A.P. Pandey