

Court No. - 47

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41517 of 2024

Applicant :- Ajeet Pandey

Opposite Party :- State of U.P.

Counsel for Applicant :- Atharva Dixit,Pranav Tiwary,Sr. Advocate

Counsel for Opposite Party :- Sarve Nazir,G.A.

Hon'ble Siddharth,J.

Heard Shri Manish Tiwari, learned Senior Advocate assisted by Shri Atharva Dixit, learned counsel for the applicant; Shri Sarve Nazir, learned counsel for the informant and learned A.G.A for the State.

There are allegations in the First Information Report against the applicant and four co-accused of committing the murder of son of the informant, Rahul by causing injuries by knife as a result of which he fell down and died.

Learned Senior Counsel for the applicant submits that following ante-mortem injuries were found on the body of the deceased :-

1. Stab wound of size 10cmx4 cm x bone deep on right side of chest, just below right Clavicle bone.
2. Stab wound of size 5 Cm x 3 cm x bone deep 4 cm below right clavicle bone right side of chest. Underlying 2nd and 4th rib fractured.

He has submitted that dimensions of injuries clearly prove that they have not been caused by knife but by some other weapon.The knife recovered was found to be in the shape of fish and it was collapseable and in two parts and there was also button for locking the same. He has submitted that injuries suffered by the deceased could not have been caused by such weapon.Applicant has been falsely implicated alongwith his father.Statement of P.W.1 has already been recorded. P.W.1has assigned the role of causing knife injury to the applicant and co-accused, Neeraj Pandey.P.W.1 in his statement recorded under section 161 Cr.P.C. had stated that applicant, who is son of co-accused, Neeraj Pandey, only caused knife injury to the deceased .Co-accused, and father

of the applicant, Neeraj Pandey has already been enlarged on bail vide order dated 23.9.2024 passed in Criminal Misc. Bail Application No. 29233 of 2024. As per statement of P.W.1 recorded before the trial court role of the applicant is similar to co-accused, Neeraj Pandey. Prosecution case is doubtful. The applicant is in jail since 5.4.2024 and has no criminal history to his credit.

On the other hand learned A.G.A. and learned counsel for the informant have opposed the prayer for bail.

Keeping in view the nature of the offence, evidence, complicity of the accused, submissions of the learned counsel for the parties noted above, finding force in the submissions made by the learned counsel for the applicant, larger mandate of the Article 21 of the Constitution of India, recent judgment dated 11.07.2022 of the Apex Court in the case of **Manish Sisodia vs. Directorate of Enforcement, 2024 LawSuit (SC) 677.** and considering 5-6 times overcrowding in jails over and above their capacity by the under trials and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

Let the applicant, **Ajeet Pandey**, involved in Case Crime No.58 of 2024, under Section-302, 34 IPC, and section 4/25 Arms Act Police Station- Saifani, District- Rampur, 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 subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) 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.

(iii) The applicant shall remain present before the Trial Court

on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) 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.

(v) 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. 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.

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

Order Date :- 23.5.2025

Atul kr. sri.