

Reserved on 07.04.2022

Delivered on 09.05.2022

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2986 of 2022

Applicant :- Lavkush

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

Counsel for Applicant :- Manish Mani Sharma

Counsel for Opposite Party :- G.A.

connected with

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1853 of 2022

Applicant :- Ankit Das

Opposite Party :- The State of U.P.Thru.Addl.Chief Secy.Home.

Counsel for Applicant :- Pranshu Agrawal, Arun Sinha, Atmad

Hasan Idrisi, Siddhartha Sinha, Vikas Srivastava

Counsel for Opposite Party :- G.A.,Shashank Singh

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2461 of 2022

Applicant :- Sumit Jaiswal

Opposite Party :- State of U.P Thru. Prin. Secy. Home

Counsel for Applicant :- Manish Mani Sharma

Counsel for Opposite Party :- G.A.

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2699 of 2022

Applicant :- Shishupal

Opposite Party :- State of U.P. Thru Prin.Secy. Home Lucknow

Counsel for Applicant :- Manish Mani Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh, J.

1. Criminal Misc. Bail Application No.1853 of 2022 under Section 439 Cr.P.C. has been filed seeking bail in S.T. No.44 of 2022, FIR No.219 of 2021, under Sections 147, 148, 149, 307, 302, 34, 326, 427,

120-B IPC, Section 30 Arms Act, 1959 and Section 177 Motor Vehicles Act, 1988, Police Station Tikonia, District Kheri.

Criminal Misc. Bail Application No.2461 of 2022 under Section 439 Cr.P.C. has been filed seeking bail in FIR No.219 of 2021, under Sections 147, 148, 149, 307, 302, 34, 326, 427, 120-B IPC, Sections 3/25 and 3/27 Arms Act, 1959 and Section 177 Motor Vehicles Act, 1988, Police Station Tikonia, District Kheri.

Criminal Misc. Bail Application Nos.2699 of 2022 and 2986 of 2022 under Section 439 Cr.P.C. have been filed seeking bail in FIR No.219 of 2021, under Sections 147, 148, 149, 307, 302, 34, 326, 427, 120-B IPC and Section 177 Motor Vehicles Act, 1988, Police Station Tikonia, District Kheri.

2. Most of the facts are common in all the four aforesaid bail applications and, therefore, stated at the beginning. As per the allegations in the FIR, on 3.10.2021, the local farmers and labourers got collected in a large number in the playground of Maharaja Agrasen Inter College, Tikonia, Kheri to show black flags to Union Minister of State for Home, Ajay Mishra @ Teni and Sri Keshav Prasad Maurya, Deputy Chief Minister, Government of Uttar Pradesh in a peaceful manner. The main accused, Ashish Mishra @ Monu, son of the Union Minister of State for Home in 3-4 four wheeler vehicles having 15-20 unknown persons armed with fire arms came in a high speed from Banveerpur to the meeting ground of the farmers and the labourers. Accused, Ashish Mishra @ Monu was sitting on left side of his Mahendra Thar vehicle and he was firing from a fire arm in his hand. His car was moving forward crushing the protesters. As a result of firing, farmer, Gurvinder Singh S/o Sukhvinder Singh, resident of Village Matronia, Nanpara, aged about 22 years died, on the spot and the other vehicles also crushed the farmers/protesters standing on both the sides of the road. The number of two vehicles were UP31 AS 1000 and UP32 KM 0036 and there was a third vehicle Mahindra Scorpio.

3. It is further alleged that because of the high speed of the vehicle Mahindra Thar, on which the accused, Ashish Mishra @ Monu was sitting and firing, lost its control and fell down in a trench, as a result thereof, many bystanders received serious injuries. Accused, Ashish Mishra @ Monu taking cover while firing, went inside a sugarcane field. The informant further said that in the incident, altogether four farmers had died whose names were given as Gurvinder Singh S/o Sukhvinder Singh, resident of Village Matronia, Nanpara, aged about 22 years, Daljeet Singh S/o Hari Singh, resident of Village Banjara Tanda, Nanpara, aged about 35 years, Nakshatra Singh S/o Sukha Singh, resident of Village Namdapurwa Dhaurhara Tehsil (Kheri) and Lavpreet Singh S/o Satnam Singh, resident of Village Chowkadafarm, Palia Kalan, Kheri. Many other farmers had also received serious injuries.

4. It is further said that before the date of incident, in a viral video, the Union Minister of State for Home, Ajay Mishra @ Teni had given threat to the farmers that the farmers would be expelled and chased away from the State. Enraged and agitated by the threats and utterances of the Union Minister of State for Home, the farmers decided to organize a protest meeting against the said threats of the Union Minister of State for Home. It is further said that despite the video, in which the Union Minister of State for Home had given threats to the farmers went viral, Central Government did not take any action against the Union Minister of State for Home. It is alleged that emboldened and encouraged by the said fact. Union Minister's son, Ashish Mishra @ Monu along with other co-accused in order to show his power, might, strength, dominance and hegemony, has committed the diabolic and barbaric crime of crushing the innocent farmers staging peaceful protest against the Union Minister of State for Home.

5. It is also alleged that on 29.9.2021, several thousand farmers had gathered in the Khairaitya Village in Lakhimpur Kheri District to celebrate the birth anniversary of Sardar Bhagat Singh and to protest against the Indian Agricultural Acts of 2020. During this gathering,

the farmers had taken objection to certain comments/threats allegedly made/given by Sri Ajay Mishra @ Teni, Union Minister of State for Home. In the course of the meeting, the farmers had decided to organize a protest against Sri Ajay Mishra @ Teni in his ancestral village on 3.10.2021. Various farmers' organizations issued appeals to their members and supporters to participate in the demonstration, and pamphlets were also distributed.

6. On 3.10.2021, an annual wrestling competition was being organized by accused, Ashish Mishra @ Monu. The programme was to be attended by his father, Sri Ajay Mishra, Union Minister of State for Home as well as by Sri Keshav Prasad Maurya, Deputy Chief Minister of the State of Uttar Pradesh. A helipad was constructed on the playground of Maharaja Agrasen Inter College, Tikonja. A crowd of farmers started gathering near the helipad in the morning of 3.10.2021 and they dug up the helipad. As the Helicopter carrying the Deputy Chief Minister would not get landed because of the presence of the large number of the protesters and also as the helipad was dug up, it was decided that the Chief Guest would travel by road to reach the venue of wrestling competition. The road route was, however, passing in front of the Maharaja Agrasen Inter College, where the protesting farmers had gathered and thus, the authorities decided to take the Chief Guest, Sri Keshav Prasad Maurya, Deputy Chief Minister from another alternate route, which was kept secret. This alternate route of travel for Sri Keshav Prasad Maurya, Deputy Chief Minister was made known to the organizers i.e. Ashish Mishra @ Monu and others and, it was also made known to Sri. Ajay Mishra @ Teni, Union Minister of State for Home.

7. It is said that some supporters of Ashish Mishra @ Monu, who were travelling by a Car to the wrestling venue, were attacked by certain farmers. The mirrors of their vehicles were smashed. A hoarding board displaying pictures of Sri Ajay Mishra and accused, Ashish Mishra was also damaged. It is alleged that these events and the actions of protesting farmers, enraged the accused, Ashish Mishra @

Monu. He, therefore, conspired with his aides and confidants and decided to teach the protesting farmers a lesson. It is also alleged that accused, Ashish Mishra @ Monu and his aides armed with weapons, left the wrestling competition venue in vehicles as mentioned in the FIR and drove in a very high speed towards the Maharaja Agrasen Inter College. When the farmers were returning to their homes after their protest was over, the accused, Ashish Mishra @ Monu with his associates, who were in the aforesaid three vehicles, allegedly drove into the crowd of the returning farmers and hit and crushed them with an intention to kill. As a result thereof, many farmers and others were crushed by the speeding vehicles. After the Thar vehicle was eventually stopped, accused, Ashish Mishra @ Monu and co-accused, Sumit Jailswal stepped out of the Thar vehicle and escaped running towards a nearby sugarcane field while taking cover by firing from their weapons. As a consequence of this incident, four farmers, one journalist, the driver of the Thar vehicle, Hariom and two others were killed and nearly ten farmers suffered major and minor injuries.

8. FIR No.220 of 2021 came to be registered on the next day i.e. 4.10.2021 on a written complaint of accused-applicant, Sumit Jaiswal against unknown miscreants. In the said FIR, it was alleged that on 3.10.2021, the complainant (Sumit Jaiswal) was present in the wrestling competition, and the huge public meeting was organized in the ancestral village of the Union Minister of State for Home, Sri Ajay Mishra @ Teni. In the said programme, the Chief Guest was Sri Keshav Prasad Maurya, Deputy Chief Minister. It was said that the complainant (Sumit Jaiswal) was going along with BJP workers to welcome the Chief Guest near 'Kalesaran Turn'. The complainant was sitting in Thar vehicle bearing no.UP31 AS 1000 along with driver, Hariom. His friend, Shubham Mishra was also sitting in the said vehicle. When the complainant (Sumit Jaiswal) and his friends in Thar vehicle reached near 'Tikonina Turn', the protesters attacked their Mahindra Thar with Lathi, Bricks and Stones etc. Driver, Hariom received head injury and he stopped the Car in a corner and,

thereafter, the miscreants dragged the driver from the Car and started assaulting him with Lathi, Danda and Sword etc. It was further said that the complainant, his friends and the BJP workers tried to run away from there facing threats to their lives from continuous pelting of bricks and stones on them. However, the miscreants caught hold of Shubham Mishra and they started assaulting him. It was further said that anyhow the complainant could escape and ran away from there, otherwise he could have also been killed by the miscreants. It is further said that, thereafter, the complainant could come to know that his friend, Shubham Mishra and the driver of the vehicle, Hariom had been killed. It was also said that two other BJP workers were killed by the miscreants/protesters.

9. Interestingly, this FIR came to be registered on the next day, in which it did not mention the name of the main accused, Ashish Mishra @ Monu, who was sitting in the Mahindra Thar vehicle, which crushed several farmers and injured many. It appears that a counter narrative was tried to be created to save the son of the Union Minister of State for Home with the help of the local police and create a false narrative that Ashish Mishra was not present when the alleged incident took place on 3.10.2021. Another important aspect of the matter is that the Deputy Chief Minister, the Chief Guest had to travel from another route and not from the route, where the farmers were staging protest. This fact of alternate route was made known to the organizers of wrestling competition, including Sri Ajay Mishra @ Teni, Union Minister of State for Home and Ashish Mishra @ Monu by the District Administration.

10. A Public Interest Litigation was filed in the Supreme Court expressing serious concerns regarding fairness of the investigation of the incidents dated 3.10.2021, and the Supreme Court vide order dated 17.11.2021 reconstituted the Special Investigation Team set up by the State and new members were inducted to carry out the investigation. Justice (Retd.) Rakesh Kumar Jain, a former Judge of the Punjab and Haryana High Court, was appointed to monitor the investigation. The

reconstituted Special Investigation Team had filed the charge-sheet on 3.1.2022 and the Special Investigation Team had found accused, Ashish Mishra @ Monu, son of the Union Minister of State for Home, Sri Ajay Mishra @ Teni, as the main perpetrator of the crime/events that took place on 3.10.2021.

11. A coordinate Bench of this Court vide order dated 10.2.2022 in Criminal Misc. Bail Application No.13762 of 2021 (corrected on 14.2.2022) allowed the bail application of the main accused, Ashish Mishra @ Monu and granted regular bail. The said order was challenged before the Supreme Court by Jagjeet Singh and others. The Supreme Court vide judgement and order dated 18.4.2022 has set aside the order dated 10.2.2022 (corrected on 14.2.2022) and remitted the matter back to the High Court for decision afresh.

Criminal Misc. Bail Application No.1853 of 2022

12. Sri I.B. Singh, learned Senior Advocate, assisted by Mr. Pranshu Agarwal and Sri Gopal Swaroop Chaturvedi, learned Senior Advocate appearing for the accused, Ankit Das have submitted that accused-applicant, Ankit Das is a businessman of Lucknow and belongs to a well known political family of the State. His grandfather was Chief Minister of the State. Accused-applicant, Ankit Das reached the venue of wrestling competition unaware of any resentment of the farmers with the Union Minister of State for Home. He has further submitted that the alleged incident of hitting and crushing the farmers had taken place with the pilot Car. The accused-applicant, Ankit Das was not sitting in the Thar vehicle. The only allegation against the accused-applicant is that he followed the Thar vehicle, in which the main accused, Ashish Mishra @ Monu was travelling. Further, the accused-applicant's car did not crush any farmer. He has also submitted that none of the injured witnesses have named the accused-applicant. Only two witnesses, namely, Satnam Singh and Baljeet Singh had stated that they had seen the accused-applicant, Ankit Das running away from the place of incident while firing from his fire arm i.e pistol.

13. Learned Senior Advocate for the accused-applicant, Ankit Das has further submitted that the medical evidence i.e. post-mortem report and the injury reports of the deceased and injured of the FIR No.219 of 2021 lodged by Jagjeet Singh on 4.10.2021 would falsify the genesis of the prosecution case inasmuch as no fire arm injury was received by any of the deceased or injured from the weapon of the accused-applicant. It has further been submitted that accused-applicant, Ankit Das had become the victim of unfortunate circumstances. Accused-applicant is a sports lover and being friend of Ashish Mishra @ Monu, went to watch the wrestling competition. Accused-applicant has responded to the notice given under Section 160 Cr.P.C. and appeared voluntarily before Special Investigation Team, where he was arrested on 13.10.2021.

14. Sri I.B. Singh, learned Senior Advocate has further submitted that the forensic report dated 30.10.2021 would also demonstrate that the weapons in the name of accused-applicant, Ankit Das were not used in the crime. The accused-applicant, Ankit Das is suffering from several diseases, including, Prolapsed Inter-vertebral Disc (PIVD) L4-L5, Grade-3 fatty liver and IBS and Type-2 Diabetes along with Blood Pressure. It is also submitted that the accused-applicant has no criminal history and he has deep roots in the society. The accused-applicant is not in a position to influence the witnesses or interfere in the trial and there is no chance to him fleeing from justice, therefore, the accused-applicant should be enlarged on bail.

15. It has been further submitted on behalf of the accused-applicant that the offence of murder can never be attributable against any accused in the light of the evidence collected against them. The incident took place without any premeditation and at best, the incident would be covered under the right of private defence falling under exception 2 and 4 of Section 300 IPC.

16. Sri V.K. Shahi, learned Additional Advocate General and Sri Prachish Pandey, learned Additional Government Advocate appearing

for the State have submitted that in view of the farmers agitation in the area, provisions of Section 144 Cr.P.C. were clamped. This Court specifically put a question to the learned Additional Advocate General that when Section 144 Cr.P.C. was invoked, how wrestling competition was permitted, which was organized by the main accused, Ashish Mishra @ Monu, S/o Sri Ajay Mishra @ Teni, Union Minister of State for Home, to which he has no answer. It has been further submitted that on 2.10.2021, the programme of the Chief Guest, Deputy Chief Minister, was cancelled to the venue by helicopter. His programme was modified to the extent that he would travel by road. This information regarding change of programme of the Chief guest travelling by road was somehow reached to the agitating farmers. The farmers were agitated because the Union Minister of State for Home, while addressing a public gathering, had threatened the farmers to be thrown out from the District Kheri. It has also been submitted that since no action was taken against the Union Minister of State for Home for making such uncharitable remarks, the farmers in a most peaceful manner were trying to stage a protest against the Union Minister of State for Home. The route of the Chief Guest, Deputy Chief Minister was diverted by the district administration so as not to face the protesting farmers. When the accused-applicant along with other co-accused came to know about the change of the route, they in a planned manner, crushed five innocent people by using three vehicles, Thar, Fortuner and Scorpio, as weapons of assault in a most cruel, diabolic, barbaric, gruesome and depraved manner. It has further been submitted that the accused-applicant was sitting in the Fortuner vehicle running behind Mahindra Thar vehicle, in which the main accused, Ashish Mishra @ Monu along with other accused armed with deadly fire arms, was sitting.

17. In respect of no gun shot injury on the deceased, learned Additional Government Advocate has submitted that the informant was not an eye witness to the incident and, therefore, the FIR version was on hearsay basis. He has submitted that the FIR version is not an

encyclopedia of every detail of the crime and mere fact that no gun shot injury was received by any of the deceased, would not falsify the incident nor the manner in which it was caused by the accused-applicant and other co-accused. He has further submitted that the injury reports and the evidence available on record, overwhelmingly prove involvement of the accused-applicant and his complicity in the heinous crime as they had crushed the innocent people under wheels of their vehicles to show their might to the agitating farmers being the son of the Union Minister of State for Home and being the friend and accomplice of main accused, Ashish Mishra @ Monu. It is also submitted that the Deputy Chief Minister, who was the Chief Guest, had not to travel from the route where the farmers were protesting, and the accused had committed the heinous offence in a most gruesome manner. It is, therefore, submitted that the argument advanced on behalf of the accused-applicants that the accused-applicants went to welcome the Chief Guest, is completely false inasmuch as it was known to the accused-applicants that the Chief Guest would not take that route. He has invited the attention of the Court towards the statements of the responsible officers of the district administration to buttress this point.

18. It has been further submitted that the injury reports of the injured persons and autopsy reports would also prove the gruesome manner in which the incident was executed by the accused to teach a lesson to the innocent agitating farmers as they had dug up the helipad and obstructed the route, as a result thereof, the Deputy Chief Minister, who was the Chief Guest, was to be taken from an alternate route. The whole incident was result of well thought of planning and execution by the accused-applicant and other co-accused.

19. Sri Prachish Pandey, learned Additional Government Advocate has further submitted that the FIR registered at FIR No.220 of 2021 on a complaint of accused-applicant, Sumit Jaiswal is an attempt to set up a counter narrative and to save the main accused, Ashish Mishra @ Monu. He has submitted that the complainant, Sumit Jaiswal has

deliberately not mentioned the name of the main accused, Ashish Mishra, who was sitting in the Thar vehicle, which was on the front of the caravan of three vehicles, that went in a high speed amongst the agitating farmers and crushed several people under wheels of their vehicles.

20. In the counter affidavit filed on behalf of the State, it has been specifically stated that the farmers were agitating in a most peaceful manner and their protest was neither violent nor unruly as alleged on behalf of the accused-applicant. The accused-applicant was sitting in the Fortuner vehicle along with anti-social elements, who were armed with deadly weapons. The aforesaid fact has been endorsed by several eye witnesses, who had seen the accused-applicant running away from the place of occurrence by firing in the air. The weapons recovered from the accused-applicant and other co-accused were sent for forensic examination and the forensic report fully corroborates the prosecution version as indiscriminate firing was made from the recovered weapons.

21. Learned Additional Government Advocate has further submitted that the Special Investigation Team, reconstituted by the Supreme Court, has carried out the investigation in the most free, fair and impartial manner without coming under any pressure from any quarter and after finding the active involvement of the accused-applicant in one of the most ghastly and cruel incident, has filed charge sheet against him as well as other co-accused in a competent court.

22. Learned Additional Government Advocate has also submitted that the accused-applicant and other co-accused are very influential persons, and if they are enlarged on bail, there is every likelihood of them influencing the witnesses, tampering with the evidence and interfering with the course of justice. He has, therefore, submitted that looking at the heinousness and gravity of offence, evidence available on record, the accused-applicant is not to be enlarged on bail.

23. Sri Shashank Singh, learned counsel for the complainant has submitted that the main accused is a mighty person as he is the son of the Union Minister of State for Home. He has further submitted that without intervention of the Supreme Court, free, fair and impartial investigation would not have been possible. The present accused-applicant is the grandson of the ex-Chief Minister of the Uttar Pradesh, and a close associate, confidant and accomplice of the main accused. The accused-applicant had intention, motive, *mens rea* and knowledge to commit the crime and in a well planned and orchestrated conspiracy, the accused-applicant and other co-accused armed with deadly weapons, went on three vehicles in a high speed, where the farmers were protesting and crushed many of innocent farmers under the wheels of their vehicles.

24. It has further been submitted that the present accused-applicant, co-accused, Sumit Jaiswal and the main accused, Ashish Mishra @ Monu are the prime architects of the crime. They have executed their criminal conspiracy to teach a lesson to agitating farmers by crushing them under their wheels in a most gruesome and cruel manner and also to show their might, power and reach. He has also submitted that the criminal conspiracy of the accused-applicant, Ankit Das, co-accused, Sumit Jaiswal, Shishupal and Lavkush with the main accused is fully established from the electronic evidence and the investigating team has categorically stated that after leaving wrestling competition, 8-10 vehicles (four wheelers) reached to “Tiwari Traders” in the sequence of Thar, Scorpio and Fortuner, but after crossing “Tiwari Traders”, sequence of vehicles changed and these vehicles were running in the sequence of Thar, Fortuner and Scorpio. This event has been captured in CCTV installed at Agarwal Filling Station, two kilometers ahead of “Tiwari Traders”. He has further submitted that after crossing “Tiwari Traders”, the accused in order to teach a lesson to the agitating farmers, ran their vehicles in the crowd of agitating farmers and crushed them in a most barbaric and inhumane manner. He has further submitted that electronic evidence would show several

bodies hanging on the vehicles of the accused passing through the road, where protest was being staged by the farmers

25. Learned counsel for the complainant has further submitted that a report of place of incident had been sent by the Forensic Science Laboratory, in which it is clearly mentioned that road is only 12 feet wide and sides of road is 4-5 feet, which is un-constructed. The passage is very narrow and salutatory, on which driving a vehicle more than normal speed can cause accident. He has further submitted that perusal of the statements of the Additional District Magistrate, Circle Officer and the Deputy Superintendent of Police would reveal that the vehicles involved in the incident were being driven in more than the normal speed and were used as a weapons to crush the innocent agitating farmers in order to teach them a lesson and to show of their might, strength, power and reach of the accused.

26. Learned counsel for the complainant has invited the attention of the Court to the relevant part of the charge-sheet. The Special Investigation Team in its charge-sheet has stated that on the basis of the oral, documentary and scientific evidence, it has got proved that the accused-applicant and other co-accused after committing the offence, ran towards the sugarcane field while firing from their weapons. It has been further submitted that the accused-applicant, Ankit Das, co-accused, Shishupal, Rinku Rana, Mohit Trivedi and others have confessed this fact during the course of investigation. From the possession of the main accused, Ashish Mishra @ Monu, one rifle and one revolver; from the possession of accused-applicant, Ankit Das, one pistol; from the possession of accused, Lateef @ Kale, One Pump Action Gun 12 Bore; from the possession of the accused, Satyam Tripathi, one revolver, were recovered and sent for examination to the Forensic Science Laboratory.

27. The Forensic Science Laboratory in its report had opined that from these weapons, several rounds were fired. Licenses of rifle and revolver are in the name of the main accused, Ashish Mishra @

Monu; license of pistol is in the name of accused, Ankit Das; license of Pump Action Gun 12 Bore is in the name of accused, Lateef @ Kale; and the license of revolver is in the name of accused, Satyam Tripathi. Main accused, Ashish Mishra @ Monu fired from revolver, whereas his rifle was used by accused Nandan Singh Bhist. Co-accused, Sumit Jaiswal after alighting from the Thar vehicle, which toppled down after causing incident, ran towards the sugarcane field. He was firing from an illegal arm. He has further submitted that two cartridges were recovered by the Investigating Officer from the Thar vehicle, which were not of any licensed arms being carried by the accused.

28. The charge sheet would also disclose that the Thar vehicle was registered in the name of Sri Ajay Mishra @ Teni, Union Minister of State for Home, which was being used by the main accused, Ashish Mishra. Fortuner, in which the accused-applicant Ankit Das was sitting, was registered in the name of Adhiraj Coal Company and the partners of the said company are the wife of the accused-applicant, Ankit Das and Mridul Agarwal. Scorpio vehicle was registered in the name of Arijit Singh @ Sadhu Singh. This Scorpio vehicle was purchased by Virendra Shukla from Arijit Singh but he could not get it transferred and this Scorpio vehicle was being used by Virendra Shukla. On the date of incident, Virendra Shukla took this vehicle at the place of wrestling competition from where accused, Shishupal took it, and he along with other accused, caused the gruesome incident.

29. Learned counsel for the complainant has further submitted that the accused-applicant, Ankit Das, who has been involved in a most heinous offence along with other co-accused, is not to be enlarged on bail looking at the impact of the crime in the society.

30. I have considered the submissions advanced on behalf of the learned counsels for the parties and perused the record.

31. Political persons holding high offices, should make public utterances in a decent language considering its repercussions in the Society. They should not make irresponsible statements as they are required to conduct themselves befitting their status and dignity of high office which they hold. As submitted, this incident might not have taken place if the Union Minister of State for Home did not make alleged utterances as has been pointed out in the counter affidavit filed on behalf of the Investigating Agency and also mentioned in the charge-sheet. Several innocent lives would not have got lost in a most cruel, diabolic, barbaric, gruesome and inhuman manner allegedly by his very promising son and other accused. It has been stated in the charge-sheet that the farmers got agitated and they were protesting peacefully against the statement of the Union Minister of State for Home, who allegedly said that the farmers would be expelled and chased away from District Kheri. This is also quite intrigue that when Section 144 Cr.P.C. was clamped in the area, why wrestling competition was not cancelled. The law makers cannot be seen to be law violaters. This Court cannot believe that it would not have been within the knowledge the Deputy Chief Minister of the State that in the area provisions of Section 144 Cr.P.C. were clamped and, any assembly or gathering was prohibited. Despite this, the wrestling competition was organized and the Union Minister of State for Home and the Deputy Chief Minister decided to be present as Chief Guest etc. in the event.

32. I have perused the charge-sheet and the evidence collected by the Special Investigation Team. The Special Investigation Team deserves full credit for carrying out free, fair, impartial and scientific investigation of the offence. The charge-sheet would disclose overwhelming evidence against the accused-applicant and other co-accused for commission of the offence, which has been termed cruel, diabolic, brutal, barbaric, depraved, gruesome and inhumane. Five people lost their lives by the alleged dastardly act of the accused-applicant and other co-accused. The accused-applicant and the main

accused, Ashish Mishra @ Monu belong to very influential political families as said and apprehension of the prosecution them interfering with the course of justice, tampering with the evidence and influencing the witnesses, cannot be ruled out at this stage.

33. In view thereof, I do not find it to be a fit case where the accused-applicant, can be enlarged on bail.

34. *Accordingly, bail application of accused, Ankit Das is rejected.*

Criminal Misc. Bail Application No.2461 of 2022

35. Sri Manish Mani Sharma, learned counsel for the accused-applicant (Sumit Jaiswal) has submitted that the accused-applicant is innocent, and he did not have any knowledge of any alleged conspiracy of driving the Thar vehicle amongst the agitating farmers to crush them under the wheels. He has further submitted that the accused-applicant is also a farmer, and he has no criminal antecedents. The accused-applicant has become the victim of the unfortunate circumstances. He has also submitted that the accused-applicant was not involved in the commission of the crime, and there was no premeditation or conspiracy for committing the offence with other co-accused. The accused-applicant has no chance of tampering with the evidence or influencing the witnesses or interfering with the course of justice, therefore, he may be enlarged on bail.

36. Sri Rao Narendra Singh, learned Additional Government Advocate and Sri Shashank Singh, learned counsels for the complainant have submitted that the accused-applicant is very active member of the ruling party. The accused-applicant is a close friend and accomplice of the main accused, Ashish Mishra @ Monu. He is a ward member of Shivpuri Ward, Nagar Palika Parishad, Lakhimpur Kheri. They have further submitted that the accused-applicant was sitting in the Thar vehicle with the main accused, Ashish Mishra @ Monu having illegal fire arm. It has come during the course of investigation that he ran away along with the main accused Ashish Mishra @ Monu when their vehicle got stopped after causing the

incident towards sugarcane fields taking cover by firing, and he was firing from his illegal arm. Involvement of the accused-applicant would also be clear from the fact that he lodged a false FIR bearing No.220 of 2021 omitting the name of the main accused, Ashish Mishra @ Monu. They have also reiterated the submissions as advanced in the bail application of the co-accused, Ankit Das. They have submitted that the accused-applicant was an active participant in the heinous offence committed in a cruel, diabolic and inhuman manner and, therefore, his bail application should be rejected.

37. I have considered the submissions of learned counsels for the parties and perused the record.

38. The accused-applicant allegedly is one of the prime accused in the commission of the offence. He was sitting in the Thar vehicle along with the main accused, Ashish Mishra @ Monu. It has come in the investigation that he took shelter in a sugarcane field taking cover by firing from an illegal arm. He is a close friend of main accused, Ashish Mishra @ Monu and as alleged, he was involved in preparation and execution of the offence.

39. Looking at the overwhelming evidence against the applicant and taking into consideration the submissions of learned counsel for the parties, I do not find it to be a fit case where the accused-applicant can be enlarged on bail at this stage.

40. *Accordingly, bail application of Sumit Jaiswal is rejected.*

Criminal Misc. Bail Application Nos.2699 of 2022 and 2986 of 2022

41. Sri Manish Mani Sharma, learned counsel for the accused-applicants (Shishupal and Lavkush) has submitted that the accused-applicants are innocent and they did not have any knowledge and neither they were part of any alleged conspiracy of driving the Thar vehicle amongst the agitating farmers to crush them under the wheels. He has further submitted that the accused-applicants have no criminal antecedents. The accused-applicants have become the victims of the

unfortunate circumstances. He has also submitted that the accused-applicants were not involved in the commission of the crime, and there was no premeditation or criminal conspiracy for committing the offence with other co-accused. The accused-applicants have no chance of tampering with the evidence or influencing the witnesses or interfering with the course of justice, therefore, they may be enlarged on bail.

42. Sri Rao Narendra Singh, learned Additional Government Advocate and Sri Shashank Singh, learned counsels for the complainant have submitted that the accused-applicants are very active members of the ruling party. The accused-applicants are friends of main accused, Ashish Mishra @ Monu. They have further submitted that the accused-applicant, Shishupal was on driver seat of the Scorpio Car, which was involved along with two other Cars as mentioned above. It has come during the course of investigation that the accused, Shishupal ran away along with the main accused, Ashish Mishra @ Monu when their vehicles got stopped after causing the incident towards sugarcane field taking cover of firing from their illegal arms. They have also reiterated the submissions as advanced in the bail application of the co-accused, Ankit Das. They have submitted that the accused-applicants were actively involved in planning and participation of the heinous offence committed in a cruel, diabolic and inhuman manner and, therefore, their bail applications should be rejected.

43. In respect of the accused, Lavkush, it has been submitted by the learned Additional Government Advocate and the learned counsel for the complainant that after five people were crushed under the wheels by the accused in a most diabolic manner, as a reaction, the crowd present there, assaulted some of the accused, who they could catch hold of. Three persons travelling in the offending vehicles also died. The accused, Lavkush and some other accused received injuries. It is alleged that accused, Lavkush also received injuries caused by crowd, but he was saved by some of the farmers and sent to the hospital. It is

also said that three accused, namely, Ashish Pandey, accused, Lavkush and Shekhar Bharti were caught hold by the farmers and they were beaten up. All these persons received injuries. Accused, Lavkush was present along with the main accused, Ashish Mishra @ Monu in the Thar vehicle and this fact has been proved by several eye witnesses present at the place of incident.

44. I have considered the submissions of learned counsels for the parties and perused the record.

45. The accused-applicants are also the prime accused in the commission of the offence. They were sitting in the Thar vehicle along with the main accused, Ashish Mishra @ Monu and Scorpio Car. It has come in the investigation that accused, Shishupal took shelter in a sugarcane field taking cover by firing from illegal arms. They are close friends of main accused, Ashish Mishra @ Monu and as alleged, they were involved in planning, preparation and execution of the offence.

46. Looking at the overwhelming evidence against the accused-applicants and taking into consideration the submissions of learned counsel for the parties, I do not find it to be a fit case where the accused-applicants can be enlarged on bail at this stage.

47. Accordingly, bail applications of Shishupal and Lavkush are rejected.

(Dinesh Kumar Singh, J.)

Order Date :- 9th May, 2022
Rao/-