

**Court No. - 87**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 49820 of 2022

**Applicant :-** Sunil @ Narendra @ Dr. Narendra Kumar Pandey @ Sunil Pandey

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Praveen Kumar Pandey, Shwetanshu Dwivedi

**Counsel for Opposite Party :-** G.A.

**Hon'ble Dinesh Kumar Singh, J.**

1. Heard and gone through the entire record.
2. By means of this application under Section 439 CrPC, the accused-applicant seeks bail in FIR No.0147 of 2022, under Sections 302, 147, 148, 149, 504, 506 and 120-B IPC read with Section 7 Criminal Law Amendment Act lodged at Police Station Vindhyachal, District Mirzapur.
3. The accused-applicant remained four times Member of Legislative Assembly in Bihar Assembly from Janta Dal United Party; he is one of the *Bahubalis* of Bihar Politics; to his credit, following criminal cases, as mentioned in para-37 of the affidavit filed in support of the bail application, are as follows:-

- i. Case Crime No.0118 of 1990 lodged at Police Station Karakat, District Rohtas;*
- ii. Case Crime No.026 of 1992 lodged at Police Station Karakat, District Rohtas;*
- iii. Case Crime No.0127 of 1993 lodged at Police Station Karakat, District Rohtas;*
- iv. Case Crime No.023 of 1991 lodged at Police Station Navinagar, District Aurangabad;*
- v. Case Crime No.09 of 1992 lodged at Police Station Piro District Bhojpur;*
- vi. Case Crime No.0204 of 1994 lodged at Police Station Aramuffasil, District Bhojpur;*
- vii. Case Crime No.02 of 1992 lodged at Police Station Dumraun, District Buxar;*
- viii. Case Crime No.078 of 2022 lodged at Police Station Karakat, District Rohtas; and*
- ix. Case Crime No.070 of 1998 lodged at Police Station Vikramganj, District Rohtas.”*

4. As per the FIR, on 14.08.2022, deceased Kanhaiya Prasad, along with family members had come for *darshan/pooja* at Vindhyachal temple in Mirzapur; when Kanhaiya Prasad and other persons, accompanying him, were cooking food nearby Ashtbhuja Vehicle Stand, 8-10 other persons were also cooking food, including non-veg; some altercation took place between Kanhaiya Prasad and those 8-10 persons, who were cooking non-veg at nearby place; one of them said that they were men/henchmen of the present accused-applicant; one of the exhorted to kill Kanhaiya Prasad and on his exhortation fire was made on Kanhaiya Prasad as a result thereof he received firearm injuries and became unconscious; because of this incident, atmosphere got charged and people got terrified; the accused persons ran away from Vehicle No. BR-0025.

5. Initially, the FIR came to be registered under Sections 307, 147, 148, 149, 504 and 506 IPC read with Section 7 Criminal Law Amendment Act; deceased, Kanhaiya Prasad was admitted in hospital from where he was referred to Varanasi where he died. Postmortem report reveals the following antemortem injuries:-

- “i. surgical stitch wound 18 cm long (15 stitches) over mid line of abdomen, 18 cm below sternal notch;*
- ii. surgical drainage wound 3 cm in diameter at rt side of abdomen, 20 cm outer to mid line, 23 cm below rt nipple;*
- iii. graze abrasion 2 cm x 1.0 cm at rt side of abdomen, 60 cm outer to mid line and 12 cm below rt nipple;*
- iv. surgical drainage wound over in diameter at rt side of abdomen, 12 cm outer to mid line, 26 cm below rt nipple; and*
- v. drainage stitched wound 1.0 cm long (1 stitch) over rt side of abdomen outr to 4.0 cm outer to mid line, 2 cm below rt nipple.”*

The said injuries were received by the deceased, allegedly from the accused, which caused his death.

6. Mr. Manish Tiwary, learned Senior Advocate, assisted by Mr. Praveen Kumar Pandey, representing the accused-applicant, submits that the name of the accused-applicant has come on the basis of hear-say evidence; there is no direct evidence regarding presence of the accused-applicant at the place of incident; incident took place at spur of moment, without any planning, however, the accused-applicant has

been implicated, alleging that there was criminal conspiracy to kill the deceased; there is absolutely no evidence to suggest any criminal conspiracy of the accused-applicant with other accused for causing the death/murder of the deceased; the accused-applicant has been implicated only on the ground that he had been Member of Legislative Assembly from Janata Dal United Party and he is having criminal antecedents.

7. On the other hand, Mr. Ratnendu Kumar Singh, learned Additional Government Advocate, submits that the accused-applicant's presence in the place of incident is fully established by electronic evidence. His mobile phone was put on surveillance and his tower location would establish that he was present at the place of incident; investigation is still on and at this stage the accused-applicant should not be enlarged on bail.

8. Considering the heinousness of the offence, criminal antecedents of the accused-applicant and the fact that an innocent person got killed in a gruesome and dastardly manner, this Court, at this stage, does not find it to be a fit case for grant of bail.

**9. REJECTED.**

10. Once the witnesses of fact get examined, the accused-applicant may revive his bail plea, if he is so advised.

11. After the charge-sheet is filed, the trial Court shall proceed with the trial expeditiously and record evidence of witnesses of fact, preferably within six months.

**[D.K. SINGH, J.]**

**Order Date :- 6.1.2023**

MVS/-