

In The Court of Session Judge, Gonda

Bail Application No. 2389/2022

CNR No. UPGD01-005364-2022

Sardar Kuraishi, aged about 45 years, S/o Faujdar, R/o Lonawa Dargah, P.S.- Khargupur,
District- Gonda.

.... **Accused / applicant**

Versus

State of Uttar Pradesh

..... **Opposite party**

Date: 17.10.2022

Bail application has been moved on behalf of accused/applicant **Sardar Kuraishi** in relation to case crime no. 129/2022, U/s 147, 148, 149, 332, 353, 504, 506, 427, 333, 307 IPC & Section 3/5/8 C.S. Act, P.S.- Khargupur, District- Gonda. Bail application of accused/applicant has been rejected by learned Additional Chief Judicial Magistrate, Court no.-1, Gonda on 27.9.2022.

An affidavit is also annexed to the bail the application given by one Jan Mohd. that this is the first bail application moved on behalf of accused/applicant and no other bail application has been preferred/pending/rejected against the same cause by accused/applicant in any Court of law either at Hon'ble High Court or other Hon'ble Court of law.

According to prosecution case, on 21.06.2022 when SHO Shri Kuber Tiwari (complainant) was present in his police station, he was informed by an informer that one Chunna, R/o Lonawa Dargah has brought a cow for eating and selling its beef after slaughtering it at his home. Believing on the above information, he along with police party reached on spot. On spot they found beef of cow and blood scattered. After being confirmed about the above information, they entered in the house of accused Chunna where other persons are also present, who opposed them and became aggressive but they saved themselves anyhow as per police training received. In alleged incident Constable Mangal and Lady constable Archana sustained some injuries. On spot some persons were apprehended while some managed to flee away. On enquiry apprehended person told their name as **1- Akbar Ali 2- Irsad Alam, 3- Iddannisha, 4- Noorjaha and 5- Saijiya**. From their search Banka and pointed knife were recovered. From search of spot, a wooden block and 25 Kg cow beef was recovered. Accordingly, recovery memo was prepared, apprehended persons were informed about their offence and taken into custody.

On the basis of aforesaid fact, a first information report was registered against present accused/applicant, 25 named and 10-12 unknown persons U/s 504, 506, 307, 353, 332, 427, 147, 148, 149 IPC & Section 3/5A/8 C.S. Act as Case crime no. 129/2022 on 21.06.2022.

After investigation police has filed charge-sheet against some accused persons while investigation against present accused/applicant and some others U/s 307, 147, 148, 149, 504, 506, 353, 332, 333, 427 IPC and section 3/5/8 C.S. Act is still going on.

Learned counsel for the accused/applicant argued that accused/applicant is innocent. At the time of alleged incident accused/applicant was at his in-laws house and thus accused/applicant was not involved in the alleged incident. Accused/applicant was not

arrested from the spot and nothing has been recovered from the possession of accused/applicant. No injury is caused to police personnel by accused/applicant. Accused/applicant is in jail since 24.09.2022.

Per contra learned DGC (Crl.) opposed the bail and argued that accused/applicant is named in FIR. Investigation against present accused/applicant is still going on. Bail application of co-accused Iddannisha and others is earlier rejected by this court. Role of accused/applicant is not different from that. Offence is grievous in nature. Accused/applicant is not entitled for bail.

Heard, learned counsel for the accused/applicant and learned DGC (Crl.) for the State and perused the material available on record.

As per prosecution story accused/applicant along with other co-accused persons have allegation regarding slaughtering a cow and attacking on police personnel when they reached on spot.

It transpires from the perusal of record that accused/applicant was named in first information report. Accused/applicant is not arrested from the spot. Nothing has been recovered from the possession of accused/applicant. In alleged incident 26 persons and 10-12 unknown persons are involved and no specific role of present accused/applicant in alleged incident was shown. Co-accused persons Iddan Nisha and others u/s 504, 506, 307, 353, 332, 427, 147, 148, 149 IPC and Section 3/5/8 C.S. Act are already enlarged on bail by the Hon'ble Court vide order dated 29.7.2022 passed in bail application no. 8468/2022. Accused/applicant is languishing in jail since 24.09.2022.

Accordingly, in light of above fact and circumstances of the case, going through the evidence available on record and without expressing any opinion on the merits of the case, in my opinion it is a fit case for bail.

Order

Bail application no. **2389/2022** moved on behalf of accused/applicant **Sardar Kuraishi** in relation to case crime no. 129/2022, U/s 147, 148, 149, 332, 353, 504, 506, 427, 333, 307 IPC & Section 3/5/8 C.S. Act, P.S.- Khargupur, District- Gonda is by allowed.

Accused/applicant be released on bail, on furnishing a personal bond of Rs. 1,00,000/- and two sureties of the like amount each to the satisfaction of the court concerned and an undertaking subject to the following conditions-

1- That accused/applicant shall remain present before the trial court on each date fixed either personally or through his counsel. **2-** Accused/applicant shall not seek any adjournment on the date fixed for evidence, when the witnesses are present in court. **3-** That accused/applicant shall remain present in person, before the trial court on dates fixed for (i) opening of the case, (ii) framing of charge; and (iii) recording of statement under section 313 Cr.P.C.. **4-** That accused/applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer.

In case of breach of any of the the above conditions, the trial court would be at liberty to cancel the bail of accused/ applicant according to law.

Dated : 17.10.2022

(Ravindra Kumar-I)
Sessions Judge,
Gonda