

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2122 of 2023

Applicant :- Bilal @ Bhola

Opposite Party :- State of U.P.

Counsel for Applicant :- A.C.Srivastava

Counsel for Opposite Party :- G.A.,Harish Chandra Mishra

Hon'ble Siddharth,J.

1. List has been revised.
2. Heard learned counsel for the applicant, learned counsel for the informant and learned A.G.A for the State.
3. Prosecution case is that on 25.08.2021 in the evening at 7.30 p.m, brother of the informant had gone to offer Namaz but did not return and thereafter in the morning it was found that dead body of his brother was lying on road and he was murdered after cutting of his throat by some unknown person.
4. Counsel for the applicant submits that the applicant is innocent and has been falsely implicated in this case. Co-accused Azeem and Talib, who have been assigned similar role as of the present applicant, have already been granted bail by co-ordinate Benches of this Court vide orders dated 01.08.2022 and 18.10.2022 passed in Criminal Misc. Bail Application Nos. 7927 of 2022 and 40844 of 2022, respectively. Hence, the applicant is entitled to be enlarged on bail on the ground of parity. The applicant is in jail since 29.08.202. Apart from the present case, applicant has criminal history of five other cases, which has been duly explained in para-15 of the affidavit.
5. On the other hand, learned A.G.A has opposed the prayer for bail, but he could not dispute the submissions urged by learned counsel for the applicant.
6. 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; keeping view the uncertainty regarding conclusion of trial; one sided investigation by police, ignoring the

case of accused side; applicant being under-trial having fundamental right to speedy trial; larger mandate of the Article 21 of the Constitution of India; considering the dictum of Apex Court in the case of **Satendra Kumar Antil vs. C.B.I., passed in S.L.P (Crl.) No. 5191 of 2021**; 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.

7. Let the **applicant- Bilal @ Bhola**, involved in Case Crime No. 567 of 2021, under Sections- 302, 201, 34, 120B of IPC, Police Station- Sardhana, District- Meerut, 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.

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

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

10. Trial court is directed to conclude the trial of the applicant as expeditiously as possible preferably within a period of one year.

11. Registrar (compliance) is directed to communicate this order to the trial Court for necessary compliance within ten days.

Order Date :- 6.12.2023

Saif