

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2186 of 2023

Applicant :- Mukesh

Opposite Party :- State of U.P.

Counsel for Applicant :- Sunil Kumar Dwivedi

Counsel for Opposite Party :- G.A.,Jyoti Kumari Jaiswar,Sharad Chand Rai

Hon'ble Sameer Jain,J.

1. Heard Sri Sunil Kumar Dwivedi, learned counsel for the applicant, Sri Vivek Kumar, Advocate, holding brief of Sri Sharad Chand Rai, learned counsel for the informant and Dr. S.B. Maurya, learned AGA-I for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 345 of 2022, under Sections 147, 302, 506, 201, 34 IPC, Police Station- Jahangirabad, District-Bulandshahar, during pendency of the trial in the court below.
3. FIR of the present case was lodged against applicant and five others and according to the FIR, on 06.07.2022 applicant along with co-accused Sanjeev has taken the sister of the informant to her '*sasural*' and when informant made a query about his sister then applicant and other accused persons stated that they have committed her murder.
4. Learned counsel for the applicant submitted that it is a case of circumstantial evidence and only allegation against the applicant is that he along with co-accused Sanjeev on 06.07.2022 has taken the deceased to her '*sasural*' and thereafter when dead body of the deceased was recovered on 09.07.2022 i.e. after three days then is it alleged that applicant was arrested and he confessed his guilt and on his pointing out the weapon used in the crime was recovered from the house of co-accused Ram Kumar and except these two evidences, there is no other evidence against the applicant on record and merely on the basis of these two evidences, it cannot be said that applicant participated in the murder of the deceased.
5. He further submitted that applicant is not having any criminal history and he is in jail since 18.07.2022 i.e. for more than a year..

6. Per contra, learned AGA as well as learned counsel for the informant although, opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

7. I have heard learned counsel for the parties and perused the record of the case.

8. Considering the fact that it is a case of circumstantial evidence and only evidence against the applicant is that three days before he along with co-accused sanjeev has taken the deceased to her 'sasural' from her paternal home and on the pointing out of the applicant, from the house of co-accused Ram Kumar the weapon used in the crime was recovered and except these two evidences, there is no other evidence against the applicant on record, in my view, applicant is entitled to be released on bail.

9. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

10. Let the applicant- **Mukesh** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

11. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

12. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 12.10.2023 / KK Patel