

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2571 of 2023

Applicant :- Rajkumar @ Lalla @ Raju @ Deepak @ Manoj Baheliya

Opposite Party :- State of U.P.

Counsel for Applicant :- Chandra Prakash Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri C.P. Pandey, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 572 of 2018 (S.T. No. 503 of 2020), under Sections 302 IPC, Police Station Kotwali Dehat, District Etah during pendency of the trial.
3. FIR of the present case was lodged against three persons (non applicant) and according to the FIR the brother of the informant had gone along with nominated accused persons but did not return and next day his dead body was found.
4. Learned counsel for the applicant submitted that applicant was not named in the FIR and according to the prosecution when he was arrested by the police then he was challaned under Section 25 Arms Act and he confessed his guilt and except the confessional statement of the applicant there is no other evidence against the applicant on record.
5. He further submits that actually applicant was having previous criminal history of about 12 cases and only due to this reason he has been made accused in the present matter and in fact he is having no concerned with the present offence. He further submits that criminal history of the applicant has been explained in the instant bail application and in the present matter he is in jail since 08.01.2020 i.e. for more than three and half years.
6. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that except the confessional statement of the applicant before the police there is no other evidence against the applicant on record. However, learned AGA further pointed out that applicant is a hardened criminal and he is

having criminal history of 16 cases but he could not dispute the fact that in four cases he was made accused when he was arrested in the present crime.

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

8. It is a case of circumstantial evidence and only evidence against the applicant is the confessional statement of the applicant and he was neither named in the FIR nor there is any other evidence against him except his confessional statement.

9. However, applicant is having criminal history of about 16 cases but even as per learned AGA when applicant was arrested in the instant crime then he was made accused in four cases, therefore, it appears that applicant is having previous criminal history of 12 cases, therefore, argument advanced by learned counsel for the applicant at this stage cannot be ruled out that only due to previous criminal history police implicated him in the present matter.

10. Further, if otherwise case of bail is made out, then bail application should not be dismissed only on the ground of criminal history of the accused.

11. Further, criminal history of applicant has been explained in the instant bail application and in the present matter he is in jail since 08.01.2020 i.e. for more than three and half years and trial of the case could not be concluded till date.

12. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

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

14. Let the applicant - **Rajkumar @ Lalla @ Raju @ Deepak @ Manoj Baheliya** 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.

15. 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.

16. 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 :- 7.11.2023

AK Pandey