

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8120 of 2023

Applicant :- Nirmal Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Vinay Kumar Tripathi, Ritesh Singh, Suresh Singh

Counsel for Opposite Party :- G.A., Prem Sagar Verma, Sunil Kumar

Hon'ble Sameer Jain, J.

1. Heard Sri Ritesh Singh, learned counsel for the applicant and Sri Santosh Nigam, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 809 of 2021, under Sections 302, 323 IPC, Police Station Banda, District Shahjahanpur, during pendency of the trial in the court below.
3. FIR of the present case was lodged against the applicant and two others and according to the FIR on 18.12.2021 applicant and other accused persons made assault upon the Jethani of the informant Gurmeet Kaur and due to which she sustained injuries and in the meantime, Sahab Singh, husband of Gurmeet Kaur arrived at spot then applicant inflicted spear injury due to which he died at spot.
4. Learned counsel for the applicant submitted that the entire allegations made against the applicant are totally false and baseless and due to previous enmity, applicant has been made accused in the present matter.
5. He further submitted that from the record it reflects that in the present matter there are four eye witnesses but out of them when two appeared before the trial court including injured Gurmeet Kaur then they did not support the prosecution case and both have turned hostile and this fact clearly suggests that the applicant has been falsely implicated in the present matter.
6. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 19.12.2021 i.e. for last two years.

7. Per contra, learned AGA opposed the prayer for bail and submitted that there are eye witness accounts and out of four eye witnesses only two could be examined till date and however, they did not support the prosecution case but even till date, informant who is also eye witness could not be examined, therefore, merely on the basis of testimony of two witnesses it cannot be said that applicant did not participate in the incident and no benefit can be extended to him.

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

9. Considering the fact that applicant is principal accused who caused spear injury upon the deceased and there are four eye witnesses in which only two have turned hostile, I am not inclined to release the applicant on bail.

10. Accordingly, the instant bail application stands ***rejected***.

11. However, considering the fact that applicant is in jail for almost two years, trial court is directed to conclude the trial of the case within nine months from the date of production of certified copy of this order strictly as per provision of section 309 Cr.P.C. without granting any unnecessary adjournment to either of the parties, if there is no legal impediment.

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 :- 11.12.2023

Ankita