

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13721 of 2023

Applicant :- Mahendra Pratap @ Babloo

Opposite Party :- State of U.P.

Counsel for Applicant :- Girraj Singh, Neha Rani, Raghvendra Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Satvendra Singh Yadav, Advocate holding brief of Ms. Neha Rani, 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. 33 of 2021, under Sections 452, 354, 506, 306 IPC, Police Station Linepar, District Firozabad during pendency of the trial.

3. Learned counsel for the applicant submitted that this is second bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed by the co-ordinate Bench of this Court on merit vide order dated 23.09.2021 passed in Criminal Misc. Bail Application No. 31897 of 2021 and he is pressing the instant second bail application on the ground that applicant is facing trial under Sections 452, 354, 506, 306 IPC and he is in jail since 13.03.2021 i.e. for last more than two and half years and trial of the case could not be concluded.

4. He further submits that till date only three prosecution witnesses could be examined, therefore, it appears that trial of the case is moving with languid pace. He further submits that all the witnesses of fact have turned hostile. He further submits that applicant is not having any previous criminal history.

5. Per contra, learned AGA opposed the prayer for bail and submitted that this is second bail application filed on behalf of the applicant and his first bail application was dismissed by this Court

on merit after considering the entire facts of the case. He further submits that there is dying declaration of the deceased, which was recorded by the Naib Tehsildar, which has been annexed as Annexure-7 to the affidavit and from its perusal it reflects that as applicant after entering in her house caught her, therefore, in shame and fear deceased committed suicide by pouring petrol upon her, therefore, applicant should not be released on bail.

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

7. However, this is second bail application filed on behalf of the applicant and his first bail application was dismissed by this Court on merit and from the record it also reflects that during investigation dying declaration of the deceased was recorded by the Naib Tehsildar but from the dying declaration it reflects that under shame and fear deceased by pouring petrol upon her committed suicide due to reason, applicant caught hold her.

8. Further, applicant is facing trial under Sections 452, 354, 506, 306 IPC and he is in jail since 13.03.2021 i.e. for last more than two and half years.

9. Further, from the record it also reflects that in the charge-sheet there are as many as 13 prosecution witnesses and till date only three prosecution witnesses could be examined and witnesses of fact have already been examined and they did not support the prosecution case and applicant is not having any criminal history.

10. Therefore, considering the facts and circumstances of the case, specially the fact that applicant is in jail for last more than two and half years, in my view, applicant is entitled to be released on bail.

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

12. Let the applicant - **Mahendra Pratap @ Babloo** 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.

13. 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.

14. 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 :- 12.12.2023

AK Pandey