

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14346 of 2021

Applicant :- Israr

Opposite Party :- State of U.P.

Counsel for Applicant :- Manoj Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Supplementary affidavit filed today on behalf of the applicant, is taken on record.
2. Heard Sri Manoj Singh, learned counsel for the applicant and Sri Jhamman Ram, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 589 of 2014, under Sections 147, 148, 149, 302, 120B, 386 IPC and 7 CrI. Law Amendment Act, Police Station Kairana, District Shamli, during pendency of the trial in the court below.
4. FIR of the present case was lodged against unknown person and according to the FIR unknown accused persons came on two motorcycles and opened indiscriminate firing and due to firing opened by them Rajendra and Shiv Kumar sustained firearm injuries and subsequently both died.
5. Learned counsel for the applicant submitted that applicant was not named in the FIR and during investigation, his complicity was revealed and as per independent witnesses he was also present at spot and on his instigation, the other co-accused persons opened fire and caused death of the deceased persons.
6. He further submitted that admittedly applicant did not cause any injury to any of the deceased.
7. He further submitted that applicant was although having criminal history of one case but after his arrest as many as ten cases have been imposed upon him and entire criminal history of applicant has been explained in paragraph-6 of the supplementary affidavit.

8. He further submitted that applicant is in jail in the present matter since 11.6.2015 i.e. for more than 8 years and till date not even a single prosecution witness could be examined.
9. He further submitted that against the applicant charges could only be framed on 15.3.2021 and therefore, it appears that trial of the case is moving with languid pace and there is no hope of its early disposal.
10. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is a hardened criminal and he used to commit such type of crime and he actively participated in the crime and it is double murder case but could not dispute the fact that there is no allegation that applicant caused any injury to any of the deceased and he made accused with the aid of section 120 B IPC and applicant is in jail for more than 8 years and till date, not even a single prosecution witness could be examined.
11. I have heard learned counsel for the parties and perused the record of the case.
12. Although, it is a case of double murder and applicant is having criminal history of about ten cases but it appears that applicant is in jail for more than eight years and till date not even a single prosecution witness could be examined and charges could only be framed against the applicant in the year 2021.
13. Further, applicant was not named in the FIR and his complicity was revealed during investigation and from record it reflects that with the aid of section 120B IPC he was made accused and there is no other allegation that he opened fire and caused injury to any of the deceased.
14. The entire criminal history of the applicant has been explained in the supplementary affidavit and from its perusal it reflects that apart from one case applicant has been made accused in all the other cases after his arrest in the present matter.
15. Therefore, considering the facts and circumstances of the case, discussed above, in my view, applicant who is in jail for more than eight years is entitled to be released on bail.
16. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.
17. Let the applicant-**Israr**, 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.

18. 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.

19. 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 :- 16.10.2023

Ankita