

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12345 of 2023

Applicant :- Kundan Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Sunil Kumar Singh

Counsel for Opposite Party :- G.A.,Aditya Kumar Rai,Gyanendra Kumar Tripathi

Hon'ble Sameer Jain,J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. None present on behalf of the informant, however, learned AGA for the State is present.
3. Heard Dr. Sunil Kumar Singh, learned counsel for the applicant and Sri Suresh Bahadur Singh, learned AGA for the State-respondent.
4. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 369 of 2019, under Sections 302, 34 IPC, Police Station- Line Bazar, District- Jaunpur, during pendency of the trial in the court below.
5. FIR of the present case was lodged against applicant and two others and according to the FIR, on 21.04.2019 applicant and two other accused persons has taken the son of the informant and on 24.04.2019 dead body of his son was found.
6. Learned counsel for the applicant submitted that it is a case of circumstantial evidence and except the evidence of last seen, there is no other evidence against the applicant on record. He further submitted that co-accused Ajay Yadav and Bhokendar Yadav have already been released on bail by co-ordinate Bench of this Court in the year 2019 and their bail orders have been annexed along with the instant bail application.
7. He further submitted that although, applicant is having criminal history of four cases but his criminal history has been explained in the supplementary affidavit and he is in jail in the present matter

since 23.08.2019 i.e. for more than four years.

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

9. I have heard both the parties and perused the record of the case.

10. Although, applicant is having criminal history of four cases but his criminal history has been explained in supplementary affidavit. It is a case of circumstantial evidence and except the evidence of last seen, there is no other evidence against the applicant on record.

11. Further, two accused persons, who were also named in the FIR along with the applicant, have been released on bail. Applicant is in jail for more than four years.

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- **Kundan Yadav** 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 :- 12.10.2023
KK Patel