

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 16128 of 2023

Applicant :- Smt. Nirmala @ Nirmal

Opposite Party :- State of U.P.

Counsel for Applicant :- Pushpendra Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Shri Pushpendra Singh, learned counsel for the applicant and Shri R. N. Srivastava, learned AGA for the State-respondent.

2. The instant second bail application has been filed seeking release of the applicant on bail in Case Crime No.1136 of 2019, under Sections 364, 302, 201 IPC, Police Station Kotwali Nagar, District Bulandshahr, during pendency of the trial in the court below.

3. Learned counsel for the applicant submitted that this is the second bail application filed on behalf of the applicant and first bail application of the applicant has been dismissed by Co-ordinate Bench of this Court vide order dated 09.05.2022 passed in Criminal Misc. Bail Application No.24098 of 2020 and he is pressing the instant second bail application mainly on the ground that as per prosecution, the recovery of the motorcycle and mobile phone of the deceased were recovered from the house of the applicant in presence of the informant of the case but when after rejection of the first bail application of the applicant, informant of the case appeared

before the trial court as P.W.-1 then he stated that recovery of the motorcycle and mobile phone of the deceased were not made in his presence.

4. He further submits that applicant is not having any previous criminal history and he is in jail in the present matter since 28.11.2019 i.e. for last more than four years.

5. Per contra, learned AGA opposed the prayer for bail and submits that this is the second bail application filed on behalf of the applicant and first bail application of the applicant has been dismissed by a Co-ordinate Bench of this Court vide order dated 09.05.2022 after considering entire facts of the case and however applicant is in jail for last more than four years but considering the evidence collected by the Investigating Officer against him, he should not be released on bail. However, he stated that trial court may be directed to conclude the trial at an early date.

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

7. This is the second bail application filed on behalf of the applicant and first bail application of the applicant has been dismissed by a Co-ordinate Bench of this Court vide order dated 09.05.2022 after considering entire facts of the case.

8. The second bail application has been moved on the ground that after rejection of the first bail application of the applicant when informant of the case appeared before the trial court as P.W.-1 then he did not state that recovery of the motorcycle and mobile phone of the deceased was made in his presence.

However, as per prosecution case, these items of the deceased were recovered in his presence but the statement of this witness recorded by the trial court cannot be analyzed and appreciated by this at this stage, therefore, considering the facts and circumstances of the case, I am not inclined to released the applicant on bail.

9. Accordingly, without expressing any opinion on the merits of the case, the instant second bail application filed by applicant- **Smt. Nirmala @ Nirmal** is **rejected**.

10. However, considering the fact that applicant is in jail for last more than four years, trial court is directed to conclude the trial of the case within a period of nine months from the date of production of a certified copy of this order strictly as per the provisions of Section 309 Cr.P.C., without granting any unnecessary adjournments to either of the parties, if there is no legal impediments.

Order Date :- 7.12.2023
Zafar