

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 17845 of 2023

Applicant :- Jitendra Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Lavkush Kumar Bhatt, Rajeev Tiwari

Counsel for Opposite Party :- G.A., Sarvesh Kumar Dubey, Swatantra Kumar Singh

Hon'ble Sameer Jain, J.

1. None appeared on behalf of the informant even in the revised call. However, learned AGA appearing for the State-respondent is present.
2. Heard Sri Rajeev Tiwari, learned counsel for the applicant and Sri Santosh Nigam, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 324 of 2022, under Sections 147, 148, 323, 504, 506, 302, 34 IPC and Section 7 CrL. Law Amendment Act, Police Station Taalgram, District Kannauj, during pendency of the trial in the court below.
4. FIR of the present case was lodged against 11 named (known applicant) and 5-6 unknown persons and according to the FIR nominated accused persons alongwith 5-6 unknown associates made assault upon the son of the informant and when one Neelu tried to save him then they also caused injury to her and after committing murder of the son of the informant they have thrown his dead body behind the bushes.
5. Learned counsel for the applicant submitted that applicant was not named in the FIR but when the statement of the informant was recorded under section 161 Cr.P.C. then he disclosed the name of the applicant and this fact shows that subsequently applicant has been falsely made accused in the present matter.
6. He further submitted that on the basis of general allegation applicant alongwith as many as 15 persons made accused in the present matter and number of other accused persons have already been enlarged on bail and their bail orders alongwith the instant

bail application have been annexed and case of applicant is at par with them.

7. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 16.12.2022 i.e. almost a year.

8. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that applicant was not named in the FIR and first time informant disclosed his name in his statement recorded under section 161 Cr.P.C. and only general allegations have been levelled against the applicant and others and number of other accused have already been released on bail.

9. He further could not dispute that applicant is having no previous criminal history and he is in jail in the present matter since 16.12.2022.

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

11. From the perusal of the record, it reflects that applicant was not named in the FIR but when the statement of the informant was recorded then very casually he disclosed the name of the applicant alongwith other accused persons and only general allegation have been levelled against all the accused including applicant and bail of number of other co-accused have already been granted and their bail orders have been annexed alongwith the instant bail application.

12. Further, applicant is having no previous criminal history and he is in jail in the present matter since 16.12.2022 i.e. for almost a year.

13. Therefore, considering the facts and circumstances of the case, discussed above, in my view, applicant is entitled to be released on bail.

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

15. Let the applicant-**Jitendra Kumar**, 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.

16. 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.

17. 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