

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 22912 of 2023

Applicant :- Bhuwan @ Bhawan

Opposite Party :- State of U.P.

Counsel for Applicant :- Piyush Patel, Pradeep Kumar

Counsel for Opposite Party :- G.A., Amit Kumar Pandey

Hon'ble Sameer Jain, J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Pradeep Kumar, learned counsel for the applicant, Sri Amit Kumar Pandey, learned counsel for the informant and Sri Suresh Bahadur Singh, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 45 of 2023, under Sections 302, 34 IPC and 7/25 Arms Act, Police Station Puranderpur, District Maharajganj during pendency of the trial.
4. FIR of the present case was lodged against two persons (non applicant) and according to the FIR on 15.02.2023 both nominated accused persons in the greed of money committed the murder of the father of the informant by causing firearm injury to him.
5. Learned counsel for the applicant submitted that applicant was not named in the FIR and during investigation on the basis of information furnished by police informer he was arrested and it is alleged that from his possession Rs. 41,800/- was recovered. He further submits that there is no allegation that applicant committed loot and as per allegation applicant is the hired criminal and after receiving money, he committed the murder of the deceased.
6. He further submits that except the statement of co-accused persons and confessional statement of the applicant, there is no other evidence against the applicant on record. He further submits that applicant is not having any criminal history, therefore, it cannot be said that he was hired criminal and in the present matter he is in jail since 16.02.2023 i.e. for more than six months.

7. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that applicant is hired criminal and from his possession about Rs. 42,000/- was recovered but could not dispute the fact that except the statement of the applicant and statement of co-accused persons, there is no other evidence on record against the applicant. They further could not dispute the fact that applicant is not having any criminal history.

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

9. It appears to be a case of circumstantial evidence and nobody could witness the real incident and it appears that on the basis of information furnished by police informer applicant was arrested and from his possession about Rs. 42,000/- was recovered and it is alleged that he was hired criminal but except the statement of applicant and co-accused persons, there is no other evidence on record in this regard. Further, applicant is not having any criminal history and in the present matter he is in jail since 16.02.2023 i.e. for more than six months.

10. Therefore, considering the facts and circumstances of the case discussed above, 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 - **Bhuwan @ Bhawan** 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 :- 31.10.2023

AK Pandey