

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 29404 of 2023

Applicant :- Jafar Khan

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Ashutosh Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Certified copy of the statement of Mohd. Arif, PW-1 recorded by the trial court has been produced by learned counsel for the applicant, which is taken on record and marked as 'A'.
2. Heard Sri Ashutosh Mishra, learned counsel for the applicant and Sri Ghanshyam Mishra, learned Brief Holder for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 294 of 2022, under Sections 307, 323, 504, 506 IPC, Police Station Faridpur, District Bareilly during pendency of the trial.
4. Learned counsel for the applicant submitted that this is second bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed by this Court vide order dated 20.01.2023 passed in Criminal Misc. Bail Application No. 58791 of 2022 and he is pressing the instant second bail application on the ground that when injured i.e. PW-1 appeared before the trial court then he did not state anything against the applicant. He produced the certified copy of the statement of injured PW-1, which has already taken on record and has already marked as 'A'. He next submits that applicant was not having any previous criminal history and in the present matter he is in jail since 20.09.2022 i.e. for more than one year.
5. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that when informant i.e. injured of the case appeared before the trial court then he did not state anything against the applicant.
6. I have heard learned counsel for the parties and perused the record of the case.
7. Although, this is second bail application filed on behalf of the

applicant and his first bail application was dismissed by this Court on merit vide order dated 20.01.2023 passed in Criminal Misc. Bail Application No. 58791 of 2022 but from perusal of the certified copy of the statement of injured i.e. PW-1, recorded by the trial court, it appears that he did not make any allegation against the applicant.

8. Further, applicant is not having any previous criminal history and in the present matter he is in jail since 20.09.2022 i.e. for more than one year.

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

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

11. Let the applicant - **Jafar Khan** 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.

12. 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.

13. 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 :- 26.10.2023
AK Pandey