

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41976 of 2020

Applicant :- Jagat Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Karunesh Narayan Tripathi

Counsel for Opposite Party :- G.A.,Manoj Kumar Srivastava

Hon'ble Sameer Jain,J.

1. Smt. Gunjan Sharma, learned counsel appointed from the panel list of High Court Legal Services as a counsel for the applicant, Sri Kameshwar Singh, learned counsel for the applicant and learned AGA for the State are present but none present on behalf of the informant.

2. Sri Kameshwar Singh, learned counsel for the applicant submitted that vide order dated 03.11.2023 Smt. Gunjan Sharma has been appointed as amicus curiae from the panel list of High Court Legal Services but after the order dated 20.09.2023, his client has engaged him.

3. In view of the peculiar circumstances, both the counsels are being heard as counsels for the applicant.

4. Heard Smt. Gunjan Sharma, learned counsel appointed by this Court as a counsel for the applicant from the panel list of High Court Legal Services, Sri Kameshwar Singh, learned counsel for the applicant and Sri Suresh Bahadur Singh, learned AGA for the State-respondent.

5. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 213 of 2019, under Sections 302, 307, 201 IPC, Police Station- Bhamaura, District- Bareilly, during pendency of the trial in the court below.

6. FIR of the present case was lodged against the applicant and according to the FIR, on 11.08.2023 applicant made assault upon the son of the informant through sharp edged weapon and due to assault made by him, son of the informant died.

7. Learned counsel for the applicant submitted that on the basis of

false allegation, applicant has been made accused in the present matter and it appears that informant of the case is not an eye-witness. He further submitted that applicant, in the present matter, is in jail since 19.08.2019 i.e. for more than four years and till date, trial of the case could not be concluded. He further submitted that from the order sheet and compliance affidavit filed by learned AGA, it appears that trial of the case is moving with languid pace and there is no hope of its early disposal, therefore, considering the long incarceration of four years, applicant should be released on bail.

8. Per contra, learned AGA opposed the prayer for bail and submitted that it is a case of Section 302 IPC and applicant is the sole accused and there is eye-witness account and applicant is the person, who caused injury to the deceased, therefore, merely on the basis of four years' incarceration, applicant should not be released on bail.

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

10. However, from the record, it reflects that applicant is in jail in the present matter since August, 2019 i.e. for more than four years but he is facing trial under Section 302 IPC and he is the sole accused and according to the eye-witness, he is the person, who caused injury to the deceased through sharp edged weapon and allegation made against him also finds support from the autopsy report of the deceased.

11. Further, however, right of speedy trial is the most cherished fundamental right of an accused provided by the Constitution of India under Article 21 and on its violation, accused may be released on bail but in view of this Court, there must be a balance between period of incarceration suffered by the accused and punishment provided for the alleged offence and seriousness of allegation.

12. In case at hand, applicant is facing trial under Section 302 IPC and allegations made against him are serious in nature and minimum punishment provided under Section 302 IPC is life imprisonment, which can be extended upto capital punishment, therefore, in view of the facts and circumstances of the case, I am not inclined to release the applicant on bail.

13. Accordingly, the instant bail application is **rejected**.

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.

15. However, considering the fact that applicant is in jail for 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 certified copy of this order, strictly as per the provisions of Section 309 Cr.P.C. on day-to-day basis without granting any unnecessary adjournment to either of the parties, if there is no legal impediment.

Order Date :- 17.11.2023

KK Patel