

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 34782 of 2022

Applicant :- Amarnath Sharma @ Babbu

Opposite Party :- State of U.P.

Counsel for Applicant :- Anjali Singh, Lal Bahadur Yadav, Maheep Kumar, Pramod Kumar Pandey, Pravin Kumar

Counsel for Opposite Party :- G.A., Ashish Kumar Gupta, Haidar Ali, Vinay Kumar

Hon'ble Sameer Jain, J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Vinod Kumar Srivastava, Advocate, Sri Lal Bahadur Yadav, learned counsel for the applicant, Sri Haidar Ali, learned counsel for the informant and Dr. S.B. Maurya, learned AGA-I for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 370 of 2019, under Sections 147, 302, 307, 323, 504 IPC, Police Station- Khutahan, District-Jaunpur, during pendency of the trial in the court below.
4. Learned counsel for the applicant submitted that this is the second bail application filed on behalf of the applicant and his first bail application was dismissed on merit by this Court on 24.11.2021 and he is pressing the instant second bail application on the ground that applicant is in jail in the present matter since 07.12.2020 i.e. for almost three years and when P.W.-1 appeared before the trial court then he assigned the specific role of causing injury to other accused person and, therefore, considering the facts and circumstances of the case argued above, applicant should be enlarged on bail.
5. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that after considering the entire facts of the case, first bail application of the applicant was dismissed by this Court on merit and applicant is facing trial under Section 302 IPC, in which minimum punishment is life imprisonment, therefore, it is not proper to release the applicant on bail merely on the ground of incarceration of three years.

6. They further submitted that statements of the witnesses recorded by the trial court cannot be appreciated by this Court at this stage, therefore, there is no good ground on the basis of which, second bail application of the applicant may be allowed, therefore, the instant bail application filed by the applicant should be dismissed.

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

8. This is the second bail application filed on behalf of the applicant and his first bail application was dismissed on 24.11.2021 by this Court on merit and applicant has moved the instant second bail application on the two grounds, the first ground is that applicant is in jail for almost three years and till date, trial of the case could not be concluded but as applicant is facing trial under Section 302 IPC, therefore, it is not proper to release the applicant on bail on the ground of incarceration of three years.

9. Further, learned counsel for the applicant submitted that when informant of the case appeared before the trial court then before the trial court in his statement he attributed the role of causing injury to the deceased to some other person but I find force in the argument advanced by learned AGA that it is neither admissible nor possible for this Court to appreciate the statements of the witnesses recorded by the trial court at this stage. Therefore, I do not find any good ground on the basis of which the instant second bail application of the applicant may be allowed.

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

11. 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.

12. However, considering the fact that applicant is in jail for three years, trial court is directed to conclude the trial of the case within a period of one year from the date of production of certified copy of this order, strictly as per the provisions of Section 309 Cr.P.C. without granting any unnecessary adjournment to either of the parties, if there is no legal impediment.

Order Date :- 29.11.2023 / KK Patel