

Court No. - 85

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 34626 of 2023

Applicant :- Javed

Opposite Party :- State of U.P.

Counsel for Applicant :- Shivendra Raj Singhal, Mohd Zubair Khan

Counsel for Opposite Party :- G.A., Firoz Haider

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the applicant, learned A.G.A. for the State and learned counsel for the opposite party no.2 and perused the record.

The present second bail application has been filed on behalf of applicant in Case Crime No. 107 of 2022, under Sections 147, 148, 149, 302, 307, 452, 504, 506, 120B, 325 of IPC, Police Station Kakrauli, District Muzaffarnagar with the prayer to enlarge the applicant on bail. First bail application was rejected by this Court vide order dated 08.02.2023 in Criminal Misc. Bail Application No. 45056 of 2022.

It has been argued by learned counsel for the applicant that applicant is innocent and he has been falsely implicated in the present case. Learned counsel for the applicant has submitted that after rejection of the bail of applicant co-accused Aas Mohammad has been granted bail by the co-ordinate Bench of this Court vide order dated 28.07.2023 in Criminal Misc. Bail Application No.33070 of 2023. It is also submitted that at the time of argument of first bail application the statements of the eye witnesses Manjura, Usman, Julfikar and Abdul Rahman were not filed since it was not received at the end of the applicant. They have stated that there was an election rivalry between the informant and applicant and others accused. It is also submitted that general role has been assigned to all the named persons. The learned counsel for the applicant drew the attention of this Court to the inquest report and submitted that at the end of the inquest report the word "F.I.R may" was added later on and number of the papers relating to "nakal rapat" which was earlier written as "2" are substituted by another figure. It is also submitted that till the inquest proceedings no F.I.R was lodged, therefore, the F.I.R of this case is anti time. It is also submitted that nothing incriminating has been recovered either on the pointing out or from the possession of the appellant. The applicant is a lady languishing in jail since 22.07.2022 having no criminal history and that in case he is released on bail, he will not misuse the liberty of bail and will cooperate in trial.

Per contra, learned A.G.A. assisted by the learned counsel for the informant have opposed the bail application of the applicant and submitted that entire fact have already been considered while disposing of the first bail application of the applicant. The applicant is the main accused since he was having love affair with Neha.

It is not disputed that the co-accused has been granted bail subsequent to rejection of the first bail application of the present applicant. In addition to it, it is also not disputed that earlier the statement of the eye witnesses were not annexed with the first bail application.

Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties, nature of evidence and all attending facts and circumstances of the case, without expressing any opinion on merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

Let the applicant **Javed** in the aforesaid crime be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of court concerned subject to the following conditions:

- (1). The applicant will not tamper with the prosecution evidence during the trial.
- (2). The applicant will not influence any witness.
- (3). The applicant will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (4). The applicant shall not directly or indirectly make any 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 to any police officer or tamper with the evidence.

In case of breach of any of the above condition, the prosecution shall be at liberty to move an application before this Court seeking cancellation of the bail.

Order Date :- 27.10.2023/PS