

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38277 of 2023

Applicant :- Aaryan

Opposite Party :- State of U.P.

Counsel for Applicant :- Mukesh Chandra Gupta, Shubham Prakash Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Mukesh Chandra Gupta, learned counsel for the applicant and Sri R.P. Patel, learned A.G.A. for the State and perused the record.
3. Applicant seeks bail in Case Crime No. 542 of 2022, under Sections 147, 148, 149, 341 & 307 of I.P.C., Police Station Mawana, District Meerut, during the pendency of trial.
4. As per prosecution story, the named accused persons Rajneesh @ Chhotu, Saurabh and four unknown persons are stated to have assaulted the brother of the informant causing gun shot injuries and other injuries to him on 03.12.2022 at about 08:30 PM.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case due to ulterior motive. He has nothing to do with the said offence as alleged in the FIR. The FIR is delayed by about 14 hours and there is no explanation of the said delay caused. Learned counsel has further stated that the applicant was not named in the FIR. His name has come up later on in the statements of injured witness. The star injured witness has been examined in Court and his statement has been filed along with the present bail application wherein he has not supported the prosecution story. He has completely resiled from his earlier statement given to the I.O. and the allegations of the FIR. He has been cross-examined by the public prosecutor after declaring him hostile. There is no possibility of conviction in the present case under the circumstances. The doctrine of *stare decisis* is applicable to the present case.
6. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. Criminal history assigned to the applicant has been explained in the affidavit. The applicant is languishing in jail since 19.04.2023. In case, the applicant is released on bail, he will not misuse the liberty of bail.
7. Per contra, learned A.G.A. has vehemently opposed the bail application but unable to dispute the submissions raised by the learned counsel for the applicant.

8. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, pending trial and considering the complicity of accused, severity of punishment, at this stage, without expressing any opinion on the 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**.

9. Let the applicant- **Aaryan** involved in aforementioned case crime number be released on bail on furnishing a personal bond and two heavy sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

i. The applicant will not tamper with the evidence during the trial.

ii. The applicant will not pressurize/ intimidate the prosecution witness.

iii. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

iv. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

v. 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 or to any police officer or tamper with the evidence.

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

11. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

12. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 13.10.2023

Siddhant