

Court No. - 85

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41219 of 2023

Applicant :- Praveen Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Shiv Shankar Kaithal

Counsel for Opposite Party :- G.A.

Hon'ble Mayank Kumar Jain,J.

Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

The present second bail application has been filed on behalf of applicant in Case Crime No. 349 of 2019, under Sections 302, 201 of IPC, Police Station Kidwai Nagar, District Kanpur Nagar with the prayer to enlarge the applicant on bail. First bail application of applicant was rejected vide order dated 26.05.2023 in Criminal Misc. Bail Application No.20244 of 2021.

It has been argued by learned counsel for the applicant that applicant is innocent and he has been falsely implicated in the present case. It is submitted that during the trial statement of witnesses of fact such as PW-2 Ram Prakash who is informant, is recorded. He had given no evidence against the applicant. PW-3 Akash Kumar has expressed only suspicion during his deposition that since deceased used to accompany the applicant therefore, he has suspicion that applicant had committed murder of the deceased. PW-4 Rahul is the brother of the deceased but he has not stated any reason how he believe that the deceased was done to death by the applicant. The other witnesses are formal witnesses. It is further submitted that applicant is languishing in jail since 19.12.2019 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, the learned Additional Government Advocate has opposed the prayer for grant of bail and argued that the statement of PW-9 Umesh Pal has been recorded since on earlier occasion the case property was not available therefore, the statement was deferred. It is further submitted that the trial of the case is in its logical end.

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 **Praveen Kumar** 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 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.
- (4). The appellant shall appear before the trial Court on every date fixed for. He shall not move any exemption application.
- (5). The appellant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 of Cr.P.C.

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 :- 11.12.2023

Mohit