

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39912 of 2023

Applicant :- Kalicharan

Opposite Party :- State of U.P.

Counsel for Applicant :- Birendra Kumar Mishra, Byas Kumar Prasad

Counsel for Opposite Party :- G.A., Satya Narayan Yadav

Hon'ble Ajay Bhanot, J.

By means of the the bail application the applicant has prayed to be enlarged on bail in Case Crime No. 204 of 2023 at Police Station- Narkhi, District- Firozabad, under Sections 302, 201 and 120B IPC. The applicant is in jail since 11.06.2023.

The bail application of the applicant was rejected by the learned trial court on 09.08.2023.

The following arguments made by Shri Byas Kumar Prasad, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Satya Narayan Yadav, learned counsel on behalf of the informant and Shri Shravan Kumar Dubey, learned AGA from the record, entitle the applicant for grant of bail:

1. The applicant was not named in the FIR.
 2. There is no direct evidence against the applicant.
 3. At best, this is a case of circumstantial evidence.
- The chain of incriminating circumstances against the

applicant is not complete.

4. The applicant has been nominated as a conspirator. The only evidence against the applicant is the statement of a co-accused wherein he assigns the role of conspiracy to the applicant. Even the aforesaid statement does not attribute any overt act in the murder of the deceased to the applicant. The said statement in so far as it implicates the applicant is inadmissible in evidence.

5. No incriminating article has been recovered from the applicant.

6. Prosecution evidence does not connect the applicant with the offence.

7. The applicant has explained his criminal history. It is also contended that the applicant is a convenient scapegoat for the police authorities. The applicant has been falsely nominated in a solitary case only to show the proficiency of the police investigators. The said case does not have any bearing on the instant bail application.

8. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to join the trial proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or

reoffending.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant- **Kalicharan** be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

- (i) The applicant will not tamper with the evidence or influence any witness during the trial.
- (ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

Order Date :- 6.11.2023
Vandit