

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40063 of 2023

Applicant :- Punni Lal @ Jagnandan

Opposite Party :- State of U.P.

Counsel for Applicant :- Vinod Kumar Ojha

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. List revised.
2. Heard Sri Vinod Kumar Ojha, learned counsel for the applicant, Sri Ajay Singh, learned AGA-I for the State and perused the material on record.
3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Punni Lal @ Jagnandan, seeking enlargement on bail during trial in connection with Case Crime No. 83 of 2019 (S.T. No. 23 of 2020), under Sections 302, 201 I.P.C. registered at P.S. Koraon, District Prayagraj.
4. The prosecution case is that the informant's sister Savitri was married with one Pankaj Kol but after 2-3 years of her marriage, co-accused Jagdish @ Chhotu Kol has enticed her away and the sister of the informant started residing with him. The said Jagdish @ Chhotu Kol and his family members started harassing Savitri (deceased) and later on, they disappeared her. On 19.05.2018, skeleton of a dead body was found in the area of District Rewa (M.P.) and after that, this case was registered on the information of M.P. Police.
5. Learned counsel for the applicant argued that applicant has been falsely implicated in this case. It is argued that the applicant has absolutely no motive to murder the deceased. It is argued that the statement of alleged eye-witness Amit Kol, is false and incorrect as he is merely a 10 years old child and has made a tutored statement. It is further argued that even though as per the statement of said witness Amit Kol, co-accused Jagdish Kol and his family members have committed murder of deceased and no specific role has been assigned to the applicant. It is argued that it is the co-accused Jagdish @ Chhotu Kol with whom the deceased was residing. It is further argued that from the place of occurrence a danda is alleged to

have been recovered from the joint pointing out of the co-accused Jagdish Kol @ Chhotu Kol and the applicant but there is no corroborative evidence regarding use of the same. The applicant is having no criminal history as stated in para-24 of the affidavit and is in jail since 29.09.2019. It is further argued that co-accused Smt. Indrakali has been granted bail by a co-ordinate Bench of this Court vide order dated 29.5.2023 passed in Criminal Misc.Bail Application No. 20456 of 2023, copy of the said bail order has been annexed as annexure no. 13 of the affidavit.

6. Per contra, learned A.G.A. has opposed the prayer of bail and argued that alleged eye-witness Amit Kol has made statement regarding involvement of applicant.

7. After having heard learned counsels for the parties and perusing the record, it is evident that co-accused Smt. Indrakali has been granted bail by a co-ordinate Bench of this Court. There is recovery of a danda from the place of occurrence from the joint pointing out of the applicant and the co-accused Jagdish Kol @ Chhotu Kol but there is no corroborative evidence of its use.

8. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

9. Let the applicant- Punni Lal @ Jagnandan, 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 concerned with the following conditions which are being imposed in the interest of justice:-

i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(V) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

10. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

11. The bail application is allowed.

(Samit Gopal,J.)

Order Date :- 28.11.2023

Naresh