

Court No. - 46

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41634 of 2023

Applicant :- Rajesh Chaudhary

Opposite Party :- State of U.P.

Counsel for Applicant :- Bheshaj Puri, Amit Kumar Yadav, Sunil Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Ashwani Kumar Mishra, 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 by the applicant in Case Crime No.144 of 2022, under Section 302 I.P.C., Police Station - Gahmar, District - Ghazipur, with the prayer to enlarge him on bail during the pendency of trial.

First bail application in the present case was rejected on 13.10.2022.

Learned counsel for the applicant submits that the sole eye-witness i.e. P.W.-2 of the incident has not supported the prosecution case and has stated that he could not recognize any of the miscreants, who committed the offence. It is also stated that co-accused Deepak Chaudhary, on such ground, has been enlarged on bail by a Co-ordinate Bench of this Court vide order dated 02.11.2023 passed in Criminal Misc. Bail Application 16461 of 2023. Parity is sought in the matter of grant of bail. It is also urged that accused-applicant otherwise has no criminal history and considering the period of incarceration as also the fact that trial may take sufficiently long, the applicant may be enlarged on bail.

Learned A.G.A. has opposed the prayer made for grant of bail but could not dispute the above contention.

Considering the facts and circumstances of the case as well as submissions made by learned counsel for the parties and perusing the material brought on record and that the trial is also likely to take sufficiently long, without expressing any opinion on merits of the case, the applicant is held entitled to grant of bail. However,

any observation made hereinabove, will not affect the trial of the case.

Let the applicant- **Rajesh Chaudhary** involved in aforesaid case crime be released on bail on his 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.
- (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 will not indulge in any unlawful activities.
- (iv) The applicant will not misuse the liberty of bail in any manner whatsoever.

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.

Order Date :- 9.11.2023

Zafar