

Court No. - 48

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40931 of 2023

Applicant :- Arjun Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Saurabh Chaturvedi, Sr. Advocate

Counsel for Opposite Party :- G.A., Dr. C.P. Upadhyay, Prem Singh

Hon'ble Saurabh Shyam Shamsbery, J.

1. Heard Sri I.K. Chaturvedi, learned Senior Advocate assisted by Sri Saurabh Chaturvedi, learned counsel for applicant, Sri Ashish Kumar Ojha, Brief Holder for State and Sri C.P. Upadhyay, Advocate for Informant.

2. This is third bail application filed by applicant-Arjun Singh in Case Crime No. 52 of 2020, under Sections 308, 304, 506 IPC, Police Station Pahadi, District Chitrakoot. First bail application of applicant was rejected vide order dated 19.10.2020 by giving following reasons:

“From the perusal of record available, prima facie, this is an offence committed after premeditation. Statements recorded during investigation prima facie shows that applicant has exhorted the co-accused, who was driving the tractor to run over the deceased, who died instantly on the spot. The co-accused was arrested on the spot, however, applicant ran away from place of occurrence.

In the backdrop of abovementioned factual and legal position, learned counsel for the applicant has failed to make out a case for bail as there are serious allegations levelled against applicant.

Considering the nature and gravity of the accusation and role attributed to accused, no case for bail is made out.”

3. Second bail application was rejected vide order dated 15.12.2021 and relevant part thereof is also mentioned hereinafter:

“6. In the present case the first bail application was rejected after hearing the arguments and after perusal of record and this Court has

passed a reasoned order, which is mentioned above. The submission of learned Senior Advocate appearing for applicant that co-accused was injured in the occurrence as well as it was an accidental death, is a matter of defence which cannot be considered at the stage of bail. Further the consideration for second bail is only the material circumstances occurred subsequent to rejection of first bail application and admittedly there is nothing on record in this regard. All the submissions made by learned Senior Advocate are akin to the argument for review of the order which is not permissible and barred by the provisions of Section 362 Cr.P.C. Learned Senior Advocate has failed to bring on record any subsequent event which may be relevant to consider the second bail application when first bail application was rejected by a reasoned order.”

4. Learned Senior Advocate appearing for applicant submits that there are two subsequent events which can be considered to allow the prayer of applicant to enlarge him on bail. Learned Senior Advocate has referred the order dated 07.08.2023 passed by a Coordinate Bench of this Court in Criminal Misc. Bail Application No. 23607 of 2021 whereby co-accused, Arun Singh has been enlarged on bail, whereas the case of applicant is on better footing and that applicant is in jail since 18.05.2020.

5. Learned Brief Holder for State and learned counsel for Informant have submitted that trial is proceeding and statements of accused under Section 313 Cr.P.C. have already been recorded on 19.10.2023 and trial is at the stage of recording of evidence of proposed defence witnesses.

6. In order to consider the first submission, I have carefully perused the bail order dated 07.08.2023 passed in the case of co-accused, Arun Singh and the reasons given therein are as follows:

“After perusing the record in the light of the submissions made at the bar and after taking an overall view of all 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.”

7. Supreme Court in various judgments and recently in **Rohit Bishnoi vs. State of Rajasthan and Anr. 2023 SCC OnLine SC 870** has not approved the reasons referred above and it has been treated to be an unreasoned order, therefore, this Court is not bound to follow or consider the above order.

8. So far as other submission is concerned, since trial is at fag end, therefore, to grant bail to accused at this stage on ground of period of detention (applicant in jail since 18.05.2020) would not be sufficient ground since charges are under Sections 308, 304, 506 IPC as well as considering nature of testimony of eye witness with regard to involvement of applicant in crime, therefore, I do not find that it is a fit case for grant of bail. However, considering the speedy trial is a right to accused also, therefore, Trial Court is directed to conclude trial expeditiously, preferably within a period of two months from today, if there is no legal impediment.

9. The bail application is accordingly disposed of.

Order Date :- 1.11.2023

AK