

Neutral Citation No. - 2023:AHC:200103

Reserved On:- 09.10.2023

Delivered On:- 16.10.2023

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48424 of 2022

Applicant :- Ashutosh Mishra @ Sintu

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajeet Kumar Srivastava

Counsel for Opposite Party :- G.A.,Pradeep Kumar Mishra

Hon'ble Siddharth, J.

1. Heard Sri Ajeet Kumar Srivastava, learned counsel for the applicant; Sri Pradeep Kumar Mishra, learned counsel for the informant; learned A.G.A for the State and perused the material placed on record.
2. This is second bail application of the applicant.
3. The first bail application of the applicant was rejected by this Court by the order dated 28.09.2022 directing the trial court to conclude the trial against the applicant within period of one year.
4. There is allegation in the FIR that the applicant and co-accused persons have caused murder of son of the informant on 01.07.2021 in the manner given in the FIR.
5. Learned counsel for the applicant submits that number of persons were implicated in this case and bail applications of co-accused, Jitendra Mishra, Anurag Mishra @ Ankur and Ramesh Mishra, have been allowed by the coordinate Bench of this Court vide Criminal Misc. Bail Application Nos. 51017 of 2021, 2905 of 2022 and 51013 of 2021 respectively by the order dated 21.04.2022.

6. Learned counsel for the applicant also submits that before the trial court statement of P.W-1 has been recorded. She has not specified the role of applicant. P.W-2 has also been examined and has also not assigned any specific role of applicant in her statement. Till date only 2 out of 19 prosecution witnesses have been examined before the trial Court. Trial will take time to conclude. The period of one year granted by this Court vide order dated 28.09.2022 to the trial court to conclude the trial against the applicant has come to an end but the trial is yet to be concluded. The applicant has criminal history of 5 cases to his credit which consists of two cases under Section 2/3 of Prevention of Damage to Public Property Act, one case under Section 110-G Cr.P.C., one case under Sections- 323, 452, 504 and 506 IPC and last case under Sections 147, 323, 504, 506, 308 and 427 IPC to which there is a cross case also. There is also a cross case regarding the present implication.

7. Learned A.G.A and learned counsel for the informant have vehemently opposed the bail application of the applicant.

8. Let the applicant, Ashutosh Mishra @ Sintu, involved in Case Crime No. 115 of 2021, under Sections- 147, 323, 504, 506, 302 and 34 IPC, Police Station- Rampur, District- Jaunpur, 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 subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates 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.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) 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. is issued and the 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 of the Indian Penal Code

(v) The applicant 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 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.

9. In case, of breach of any of the above conditions, it shall be a ground for cancellation of bail.

10. Identity and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

11. Trial court is expected to conclude the trial of the applicant keeping in view the earlier order of this court most expeditiously as possible preferably within a further period of one year.

12. Registrar (compliance) is directed to communicate this order to the trial Court for necessary compliance within ten days.

Order Date :- 16.10.2023

Rohit