

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42720 of 2023

Applicant :- Nasibun

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohammad Zafar Yab Khan, Shahroze Khan

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot, J.

By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No. 74 of 2022 at Police Station Madanpur, District Deoria under Section 302 and 120B I.P.C. The applicant is in jail since 07.11.2022.

The bail application of the applicant was rejected by the learned trial court on 17.08.2022.

The following arguments made by Shri Shahroze Khan, learned counsel assisted by Shri Mohd. Zafar Yab Khan, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Rishi Chaddha, learned AGA from the record, entitle the applicant for grant of bail:

1. The applicant was not named in the F.I.R.
2. The applicant is the wife of the deceased.
3. There is no direct evidence against the applicant. This

is a case of circumstantial evidence.

4. Chain of incriminating circumstances against the applicant is not complete.

5. The applicant has been nominated in a statement made by the co-accused before the police authorities while in police custody of the latter. The said statement insofar as it implicates the applicant is not admissible in evidence.

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

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

8. As per the prosecution case the applicant had a role in the criminal conspiracy. However, there is no evidence against the applicant to connect with any criminal conspiracy.

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

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

11. The applicant does not have any criminal history apart from the instant case.

12. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertake 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- **Nasibun** 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 :- 16.10.2023
Dhananjai