

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50731 of 2022

Applicant :- Sonu

Opposite Party :- State of U.P.

Counsel for Applicant :- Ramdhan, Ganesh Shanker Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Ganesh Shanker Srivastava, learned counsel for the applicant, Sri Pradeep Kumar, learned AGA for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 125 of 2016, under Sections 364A, 302, 201, 34 IPC, Police Station Indrapuram, District Ghaziabad during pendency of the trial.
3. This is second bail application on behalf of the applicant and his first bail application has been rejected by this Court on merits on 09.12.2020.
4. Learned counsel for the applicant submits that it is a case of circumstantial evidence and except statement of the co-accused Pradeep @ Daroga, there is no other evidence against the applicant on record. The applicant is in jail in the present case since 12.09.2017 i.e. for more than six years and till date only one prosecution witness has been examined out of total number of 11 witnesses of the chargesheet. He further submits that apart from the present case, the applicant is having history of one case of Electricity Act and except these two cases, no other case is pending against him.
5. *Per contra*, learned A.G.A. opposed the prayer for bail and submits that this is second bail application and the first bail application has been rejected on merits but he could not dispute the fact that except the statement of co-accused Pradeep @ Daroga, there is no other evidence on record and the applicant is languishing in jail for more than six years.

6. I have heard both the parties and perused the record.

7. Record of the case reveals that this is second bail application filed on behalf of the applicant and the first application was dismissed by this Court on merit vide order dated 09.12.2020.

8. It is evident from the record that it is a case of circumstantial evidence and except statement of co-accused Pradeep @ Daroga, there is no other evidence against the applicant on record. Further, the applicant is in jail in the present case since 12.09.2017 i.e. for more than six years and till date only one prosecution witness has been examined out of total number of 11 prosecution witnesses.

9. Considering the facts and circumstances of the case and the discussion made above, particularly, the fact that applicant is in jail since 12.09.2017, in my view, the applicant is entitled to be enlarged on bail

10. Let the applicant **Sonu** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

11. In case of breach of any of the above conditions, the prosecution will be at liberty to move an application before this Court for cancellation of bail of the applicant.

12. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 13.10.2023

Madhurima