

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42673 of 2023

Applicant :- Sumit Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Shashi Prakash Giri,Ajay Dubey,Kamlesh Kumar Dwivedi

Counsel for Opposite Party :- G.A.,Deepak Kumar,Garun Pal Singh

Hon'ble Sameer Jain,J.

1. Heard Sri K.K.Dwivedi and Sri Ajay Dubey, learned counsels for the applicant, Sri Garun Pal Singh, learned counsel for the informant and Dr.S.B.Maurya, learned AGA-I, for the State,.

2. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.273 of 2023, under Sections 302 and 120B IPC, Police Station Jait, District Mathura during pendency of the trial.

3. FIR of the present case was lodged against unknown persons and according to the FIR, brother of the informant was in the office of one Mahendra and on 13.7.2023 informant received information that his brother has been murdered and his dead body is lying on the gate of Real Estate Company where he worked.

4. Learned counsel for the applicant submits that FIR of the present case was lodged against unknown persons after three days and during investigation on the basis of CCTV Footage, two persons Kallu @ Ahil and Sumit S/o Jai Kumar (non applicant) were made accused and when they were arrested then they disclosed the name of applicant.

5. He further submits that thereafter it is alleged that on 28.7.2023 applicant was arrested and he confessed his guilt. He

next submits, it is a case of circumstantial evidence but except confessional statement of applicant and statement of co-accused persons there is no other evidence against the applicant on record.

6. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 29.7.2023.

7. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that although name of applicant was surfaced through the statements of co-accused persons but co-accused Kallu @ Ahil categorically stated that applicant hired them and, therefore, it cannot be said that there is a case of no evidence.

8. I have heard learned counsel for the parties and perused the record of the case.

9. It is a case of circumstantial evidence and from the record it reflects that only evidence against the applicant is the evidence of co-accused persons and his confessional statement and except this there is no other evidence against the applicant on record and on the basis of these two evidence charge sheet has also been submitted against the applicant.

10. Further, applicant is not having any previous criminal history and in the present matter he is in jail since 29.7.2023.

11. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

12. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

13. Let the applicant-**Sumit Yadav** 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.

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

15. 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 :- 31.10.2023
SKM