

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43156 of 2023

Applicant :- Ashwani Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Akash Tomar

Counsel for Opposite Party :- G.A.,Birendra Singh Khokher

Hon'ble Siddharth,J.

Heard Dilip Kumar, learned Senior Counsel assisted by Sri Akash Tomar, learned counsel for the applicant; Sri Birendra Singh Khokher and Sri Vidhya Kant Shukla, learned counsel for the informant; learned AGA for the State and perused the material placed on record.

The instant bail application has been filed on behalf of the applicant, **Ashwani Kumar**, with a prayer to release him on bail in **Case Crime No. 1069 of 2014, under Sections 302, 120-B IPC, Police Station Baraut, District- Baghpat**, during pendency of trial.

It appears from the record that applicant was enlarged on bail by co-ordinate Bench of this Court on 25.3.2022. Against the grant of bail, informant approached the Apex Court by way of Criminal Appeal No. 1695 of 2022 and the order of bail passed by this Court was set aside by the order dated 30.9.2022. The applicant was directed to surrender before the concerned jail and he surrendered accordingly. He is in jail since 14.10.2022.

Learned Senior Counsel for the applicant has submitted that the applicant approached the court below again for grant of bail, which has been rejected by the order dated 7.8.2023 and hence he is before this Court again. He has submitted that there is no fetter in the powers of High Court to consider the bail application of the applicant again on fresh grounds, even when bail earlier granted to him has been cancelled by the Apex Court. He has submitted that there are number of new grounds on which he is pressing this bail application of the applicant for second time before this Court. He has placed before this Court extensive arguments based on facts of the case and legal issues involved and submitted that a clear case for grant of bail is made out in favour of the applicant.

Learned counsel for the informant and learned AGA have vehemently opposed the prayer for bail of the applicant on the ground that in the absence of any liberty granted by the Apex Court to consider the bail application of the applicant again, this application cannot be heard by this Court on fresh grounds.

After hearing rival submissions, this Court finds that Apex Court has simply set aside the earlier bail order passed by co-ordinate Bench of this Court in favour of the applicant vide order dated 30.9.2022. It has

not granted liberty to the applicant to apply afresh in case trial is not concluded within some reasonable time or on some fresh ground, which may be discovered during trial after the statements of witnesses are recorded.

In view of above legal position, this Court has no option but to reject the application of the applicant.

The bail application is, accordingly, **rejected**.

Order Date :- 17.11.2023

Ruchi Agrahari