

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43026 of 2023

Applicant :- Netrapal

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Mahendra Singh

Counsel for Opposite Party :- G.A.,Arvind Kumar Tiwari

Hon'ble Sameer Jain,J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Mahendra Singh, learned counsel for the applicant, Sri Arvind Kumar Tiwari, learned counsel for the complainant and Sri Pradeep Kumar, learned AGA, for the State.
3. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.412 of 2019, under Sections 147,148,149, 302 and 120B IPC, Police Station Harduaganj, District Aligarh during pendency of the trial.
4. Complaint of the present case was lodged against the applicant and six others on 14.2.2019 and according to it, applicant along with his other associates committed the murder of the 'Tau' of the complainant on 29.11.2013 and when complainant came to know that applicant and others committed the murder of his 'Tau' then he lodged the complaint of the present matter in the month of February, 2019 i.e, after more than five years.
5. Learned counsel for the applicant submits that applicant has been made accused in the present matter after more than five

years along with six others through a criminal complaint.

6. He further submits that admittedly the deceased was murdered in November, 2013.

7. He next submits that in the present complaint one Rampal was also made accused and he himself lodged FIR with regard to death of the deceased of the present case on 29.11.2013 against other persons and after investigation charge sheet has been filed in that case and trial of the case is still pending and after five years suddenly complainant, who is cousin brother of applicant moved criminal complaint against the applicant and others in which applicant and other accused persons were summoned.

8. He further submits that out of total seven accused, one accused had died and five others have already been released on bail.

9. He further submits that bail orders of other accused persons have been annexed as Annexure-11 to the affidavit filed in support of the present bail application.

10. He further submits that case of applicant is at par with co-accused Ram Pal and Narayan Singh.

11. He further submits that although applicant was having criminal history of three other cases but his criminal history has been explained in paragraph-29 to the affidavit filed in support of the present bail application.

12. He further submits that applicant is in jail in the present matter since 29.8.2023.

13. Per contra, learned AGA as well as learned counsel for the complainant opposed the prayer for bail but could not dispute the argument on facts advanced by the learned counsel for the applicant.

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

15. Considering the fact that complaint was lodged by the complainant after five years and with regard to murder of the deceased an FIR had already lodged way back in the year 2013 in which applicant was not accused and other accused persons have already been released on bail and criminal history of applicant has been explained in affidavit filed in support of the present bail application, in my view, applicant is entitled to be released on bail.

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

17. Let the applicant-**Netrapal** 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.

18. 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.

19. 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 :- 26.10.2023

SKM