

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51877 of 2022

Applicant :- Rampal Singh@ Dilra

Opposite Party :- State of U.P.

Counsel for Applicant :- Raju Ratan Chauhan

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Raju Ratan Chauhan, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 291 of 2008, under Sections 304, 326 IPC, Police Station Kotwali Dehat, District Banda during pendency of the trial.
4. FIR of the present case was lodged against applicant and according to the FIR on 29.10.2008 applicant on some dispute after taking gun from his house suddenly arrived at spot and during scuffle all of sudden fire was made and due to the fire the uncle of the informant and his father sustained firearm injury and after sometimes the father of the informant died.
5. Learned counsel for the applicant submitted that although instant matter is of the year 2008 but applicant was not aware about the fact that FIR was lodged against him, therefore, he had gone to Gujarat for his livelihood and when he was arrested in the present matter in the year 2020 then he came to know that FIR of the instant case was lodged against him. He further submits that applicant never intended to avoid the court proceedings and he is not an absconder and he could not appear before the trial court earlier only due to the reason that he was not aware that proceedings of the instant case is pending against him.

6. He further submits that on merit, even as per prosecution all of sudden during scuffle fire was opened and applicant was not having any intention to cause either death of the deceased or to cause injury to the injured. He next submits that applicant is not having any criminal history and he is in jail since 19.06.2020.

7. He further submits that in the charge-sheet there are as many as 24 prosecution witnesses and till date only three prosecution witnesses could be examined. He further submits that out of 24 witnesses 8 are witnesses of facts, therefore, it appears that trial of the case is moving with languid pace and there is no hope of its early disposal. He further submits that informant and injured of the case have already been examined, therefore, there is no chance of any tampering with the prosecution evidence.

8. Per contra, learned AGA opposed the prayer for bail and submits that applicant is an absconder and he was arrested after 12 years, therefore, there is every chance that if he will released on bail then he will again abscond. On merit, learned AGA submitted that applicant was having intention to cause death and intentionally he picked his gun from his house and when he was going to fire in the meantime informant side tried to snatch gun and during scuffling injured and deceased sustained firearm injury, therefore, considering the totality of the facts and circumstances of the case, applicant should not be released on bail.

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

10. From the perusal of record, it appears that applicant anyhow arrested after 12 years and although he taken a plea that due to his livelihood he had gone to Gujarat and he was not aware about the registration of the FIR of the present case but explanation given by the applicant with regard to his absconding appears to be vague and cannot be accepted.

11. Further, although from the record it reflects that applicant is facing trial under Section 304, 326 IPC but from the statement of the injured Ganesh it reflects that applicant intentionally firstly had gone to his house to take his gun and thereafter when he was going to open fire from his gun then in the meantime to save themselves injured, deceased and other persons trying to snatch the gun from

the hands of the applicant and as per allegation, it appears that in the meantime, fire was opened by the applicant and due to the conduct of the applicant one person lost his life and one person sustained injuries.

12. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be released on bail.

13. Accordingly, the instant bail application is rejected.

14. However, considering the fact that applicant is in jail for more than three years and three witnesses of fact including injured have already been examined by the trial court, trial court is directed to conclude the trial of the case within a period of eight months from the date of production of certified copy of this order strictly as per provision of Section 309 Cr.P.C., if there is no legal impediment.

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 :- 12.10.2023

AK Pandey