

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43600 of 2023

Applicant :- Amarpal

Opposite Party :- State of U.P.

Counsel for Applicant :- Mukesh Joshi

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Mukesh Joshi, learned counsel for the applicant as well as Sri S.P. Pandey, learned A.G.A. for the State and perused the record.
3. Applicant seeks bail in Case Crime No.127 of 2022, under Sections 302, 120-B I.P.C., Police Station Saifani, District Rampur, during the pendency of trial.
4. This is the second bail application on behalf of the applicant. The first bail application was rejected by this Court vide order dated 10.4.2023 passed in Criminal Misc. Bail Application No.14756 of 2023.
5. Learned counsel for the applicant has stated that the first bail application of the applicant was rejected on the basis of statement of the informant, who is stated to have seen the applicant running away from the scene of occurrence, covered by Section 6 of Evidence Act. Learned counsel has stated that subsequent to the said rejection order, the informant Smt. Antresh has been examined as PW-2 and she has not supported the prosecution story and resiled from her statement recorded under Section 161 Cr.P.C. and also from the FIR lodged by her, as such, she has been declared hostile and cross-examined by the prosecution.
6. Learned counsel for the applicant has further stated that there is no likelihood of conviction in the present matter. Learned counsel has stated that the criminal history of one case assigned to the applicant is regarding the CMP recovered in the very same case, as such, he could not apply for bail in it. The applicant has no previous criminal history to his credit. The applicant is languishing in jail since 9.10.2022. In case, the applicant is released on bail, he will not misuse the liberty of

bail.

7. Per contra, learned A.G.A. has vehemently opposed the bail application but unable to dispute the submissions raised by the learned counsel for the applicant.

8. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties and taking into consideration that the sole witness of fact, who happens to be the informant, has not supported the prosecution story, and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

9. Let the applicant- **Amarpal** involved in aforementioned case crime number be released on bail on furnishing a personal bond and two heavy sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

- (i) The applicant will not tamper with the evidence during the trial.
- (ii). The applicant will not pressurize/ intimidate the prosecution witness.
- (iii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.
- (iv) The applicant shall not commit an offence similar to the offence of which he is accused, or suspected of the commission of which he is suspected.
- (v) The applicant shall not directly or indirectly make any 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 to any police officer or tamper with the evidence.

10. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

11. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

Order Date :- 3.11.2023/Vikas

[Krishan Pahal, J.]