

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43761 of 2023

Applicant :- Dhananjay Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Adya Prasad Tewari, Satyam Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot, J.

By means of the bail application the applicant has prayed to be enlarged on bail in Case Crime No.22 of 2018 at Police Station-Tharwai, District-Prayagraj under Sections 302, 120B IPC. The applicant is in jail since 28.08.2023.

The bail application of the applicant was rejected by the learned trial court on 04.10.2023.

The following arguments made by Shri Adya Prasad Tewari, learned counsel assisted by Shri Satyam Tiwari, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Santosh Kumar Yadav, learned counsel for the informant and Shri Paritosh Kumar Malviya, learned AGA-I from the record, entitle the applicant for grant of bail:

1. The applicant was not named in the F.I.R. which got lodged on 12.02.2018.
2. The applicant was nominated by the first informant belatedly in an application made before the police authorities on 27.03.2018 after due deliberations with interested parties.

3. The sole motive of belated nomination of the applicant was to leverage the criminal proceedings in the partition dispute in the family.

4. The applicant and the deceased were related.

5. The statement of the witness who claims to be an eye witness before the police authorities contradicts the case set up in the F.I.R.

6. Material inconsistencies in the F.I.R. and the statements of the witnesses discredit the prosecution case.

7. The applicant is a law abiding citizen who had chosen to avail legal remedies against unfair investigations. He was always approaching the court and was also present in the learned trial court from time to time. The applicant had no evade to process of law.

8. The applicant has explained his criminal history. It is also contended that the applicant is a convenient scapegoat for the police authorities who has been falsely nominated in other cases only to show the proficiency of the police investigators. The said cases do not have any bearing on the instant bail application.

9. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant- Dhananjay Yadav be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

- (i) The applicant will not tamper with the evidence or influence any witness during the trial.
- (ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

Order Date :- 13.10.2023

Ashish Tripathi