

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43789 of 2023

Applicant :- Dilshad

Opposite Party :- State of U.P.

Counsel for Applicant :- Ranjan Dhwanj 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.368 of 2023 at Police Station-Nichlaul, District-Maharajganj under Section 302 IPC. The applicant is in jail since 03.08.2023. The bail application of the applicant was rejected by the learned trial court on 21.09.2023.

The following arguments made by Shri Ranjan Dhwanj Tiwari, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Paritosh Kumar Malviya, learned AGA-I from the record, entitle the applicant for grant of bail:

1. The missing report was got lodged after the disappearance of the deceased by the first informant. The applicant was not named in the said report.
2. The delay in lodgment of the F.I.R. in the facts and circumstances of the case is fatal to the prosecution case.
3. The applicant was nominated as an afterthought by the first informant after due deliberation with interested

parties in the village.

4. There was no cause for the first informant who is the father of the deceased not to convey the information promptly to the police authorities about the disappearance of the applicant.

5. There is no direct evidence against the applicant.

6. This is a case of circumstantial evidence. The chain of incriminating circumstances against the applicant is not complete.

7. The applicant was not last seen with the deceased at a time proximate to the death of the latter.

8. No incriminating article has been recovered from the applicant.

9. The cause of death as opined in the post mortem report is asphyxia as a result of drowning.

10. The applicant does not have any criminal history apart from this case.

11. 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- Dilshad 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