

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44256 of 2023

Applicant :- Rishi Kumar Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Piyush Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1.Power has been filed today on behalf of Sri Rashid Ali as counsel for the informant which is taken on record.

2. Heard Sri Piyush Tripathi, learned counsel for the applicant, Sri Rashid Ali, learned counsel for the informant and Sri R.N. Srivastava, AGA for the State-respondent.

3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 181 of 2022, under Sections 302, 120-B IPC, Police Station- Obara, District- Sonbhadra, during pendency of the trial in the court below.

4. FIR of the present case was lodged against co-accused Pankaj Yadav and his associates and according to the FIR, co-accused Pankaj is collateral of the informant and some dispute with regard to land was pending between informant side and co-accused Pankaj and on 08.09.2022 at about 12:00 in the noon co-accused Pankaj along with his unknown associates made assault upon the father of the informant and co-accused Pankaj caused injury to the father of the informant through stone. It is further mentioned in the FIR that brother of the informant, Babundar was the eye-witness and he informed the informant about the incident and due to assault made by co-accused Pankaj, father of the informant died at spot.

5. Learned counsel for the applicant submitted that applicant was not named in the FIR and after nine months, he was made accused in the present matter only due to reason that he is the brother of co-accused Pankaj. He further submitted that after about nine months , Investigating Officer recorded the statements of Virendra Kumar, Rahul Kumar and Chhote Lal and they have stated that applicant along with his brother, co-accused Pankaj and Rishi

made planning to eliminate the deceased but statements of these witnesses appears to be highly improbable. He further submitted that even from these statements, it appears that applicant has been made accused with the aid of Section 120-B IPC. He further submitted that from the statement of eye-witnesses Babundar and Bobby, the grand son of the deceased, it appears that co-accused Pankaj alone committed the murder of the deceased.

6. He further submitted that bail application of co-accused Shiv Kumar Yadav has been allowed by this Court vide order dated 15.09.2023 passed in Crl. Misc. Bail Application No. 40373 of 2023 and case of the applicant is at par with him. Learned counsel for the applicant produced the aforesaid bail order which is taken on record. He further argued, applicant is not having any criminal history and is in jail since 08.08.2023.

7. *Per contra*, learned AGA although, opposed the prayer for bail but could not dispute the argument of facts advanced by learned counsel for the applicant.

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

9. Considering the fact that name of the applicant was revealed in the present matter after about nine months and only allegation against the applicant is of conspiracy and as per the eye-witnesses, co-accused Pankaj committed the murder of the deceased, and, bail application of co-accused Shiv Kumar Yadav has been allowed by this Court vide order dated 15.09.2023 passed in Crl. Misc. Bail Application No. 40373 of 2023 and case of the applicant is at par with him, in my view, applicant is entitled to be released on bail.

10. Therefore, considering the facts and circumstances of the case discussed above, in my view applicant is entitled to be released on bail.

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

12. Let the applicant **Rishi Kumar Yadav** 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.

13. 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.

14. 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 :- 17.10.2023

Madhurima