

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44218 of 2023

Applicant :- Kamal Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Umesh Kumar, Bhawesh Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Bhawesh Pratap Singh, learned counsel for the applicant and Sri Jhamman Ram, learned AGA-I for the State.
2. The instant bail application has been filed on behalf of the applicant seeking release on bail in Case Crime No. 442 of 2023 under sections 302/201 IPC, Police Station Sikandra, District Agra.
3. FIR of the present case was lodged against one Banti and Bablu on the basis of suspicion.
4. Learned counsel for the applicant submits that applicant was not named in the FIR and during the course of investigation, when co-accused Paras was arrested then he confessed his guilt and disclosed the name of the applicant. He further submits that during investigation, the investigating officer collected the call details of the applicant and location of the applicant was found near the place of incident and except these two evidences, there is no other evidence on record against the applicant.
5. He further submits that applicant is not having any previous criminal history and he is in jail since 11.08.2023.
6. Per contra, learned AGA opposed the prayer for bail and submits that as per the call details of the applicant, it appears that applicant was present near the place of incident at the time of the incident and, thereafter, his mobile phone was also switched off but he fairly conceded that apart from the aforesaid evidence and the statement of co-accused Paras, there is no other evidence against the applicant on record.
7. I have heard both the parties and perused the record of the case.

8. It is a case of circumstantial evidence and it appears that name of the applicant was surfaced after about one and a half months of the incident in the statement of co-accused Paras and although from the call details record of the applicant, his location was found near the place of incident and it was also found by the investigation officer that his mobile phone was also switched off but merely on the basis of location of the applicant and the fact that his mobile was switched off, at this stage, it cannot be said that applicant was involved in the commission of the crime in question.

9. Further, apart from the statement of co-accused Paras and call details record of the applicant, there is no other evidence against the applicant on record.

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

11. Let the applicant **Kamal Singh** 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.

12. In case of breach of any of the above conditions, the prosecution will be at liberty to move an application before this Court for cancellation of bail of the applicant.

13. 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