

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44895 of 2023

Applicant :- Mohd. Yusuf Kamal

Opposite Party :- State of U.P.

Counsel for Applicant :- Vivek Singh, Aanjaneya Dwivedi

Counsel for Opposite Party :- G.A., Sunil Kumar Dubey

Hon'ble Pankaj Bhatia, J.

1. Supplementary affidavit filed on behalf of applicant in the court today is taken on record.
2. Heard learned counsel for the applicant, learned counsel for the informant, learned A.G.A. for the State and perused the record.
3. The contention of learned counsel for the applicant is that the applicant is in jail since 22.11.2018 and till date only four out of fourteen proposed witnesses have been examined. He further argues that general allegations were leveled against all the accused persons and one of the co-accused Sebu alias Asif Kamal has already been enlarged on bail by this Court, vide order dated 16.8.20213 mainly on the ground of prolonged detention without trial. He further argues that the allegations leveled against the applicant is same and the applicant is in jail since 22.11.2018 and there being no chance of conclusion of the trial. Criminal history has been properly explained in the supplementary affidavit, in which the applicant has been declared juvenile.
4. Learned counsel for the informant, as well as learned A.G.A. have vehemently opposed the prayer for bail and submitted that this Court, while considering the bail of other co-accused Ibney Saud has dismissed by the court below, vide order dated 26.5.2022.
5. Considering the gravity of offence, wherein a seventy years old person was killed by three persons who were also seen in the CCTV footage. Considering the manner in which the offence was committed and the fact that an old man was murdered, it is argued by learned counsel for the informant that the bail application should be rejected. He further does not deny the fact that applicant

is in jail since 14.2.2018 and the four out of fourteen witnesses have been examined.

6. Considering the submissions made at the Bar and the bail granted to one of the co-accused Sebu alias Asif Kamal. The order transpires that the trial is going on and there being no chance of conclusion of trial in near future. Apart from criminal history as disclosed in the supplementary affidavit when the applicant was juvenile. It is well settled that the pending trial can not continue indefinitely more so when there is no likelihood of the trial be concluded in near future. However, the fact witnesses have already been examined. Considering the fact that the applicant has no criminal antecedent to his credit and there is nothing to demonstrate that if the applicant is enlarged on bail he shall effect the trial.

7. Let the applicant **Mohd. Yusuf Kamal** be released on bail in FIR No. 304 of 2018, under Sections 147, 148, 149, 323, 504, 506, 341, 302, 120B I.P.C. and section 7 Criminal Law Amendment Act, P.S. Shivkuti, district-Prayagraj, on his furnishing a personal bond with two sureties of Rs.25,000/- each to the satisfaction of court concerned with the following conditions:

(a) The applicant shall execute a bond to undertake to attend the hearings;

(b) The applicant shall not commit any offence similar to the offence of which he is accused or suspected of the commission; and

(c) 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.

Order Date :- 8.11.2023

Faridul