

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44839 of 2018

Applicant :- Gaurav

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajneesh Tripathi

Counsel for Opposite Party :- G.A., Hasan Abbas, Vijay Prakash Singh Kushwaha

Hon'ble Sameer Jain, J.

1. Heard Sri Sunil Kumar Yadav, Advocate, holding brief of Sri Haridwar Singh, learned counsel for the applicant, Sri Rakesh Kumar Mishra, Advocate, holding brief of Sri Hasan Abbas, learned counsel for the informant and Dr. S.B. Maurya, learned AGA-I for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 373 of 2017, under Sections 147, 148, 302, 394, 411 IPC, Police Station- Bhogaon, District- Mainpuri, during pendency of the trial in the court below.
3. FIR of the present case was lodged against applicant and one another and unknown person and according to the FIR, on 26.06.2017 at about 5:30 p.m. in the evening, applicant during scuffle cut the neck of the son of the informant through sharp edged weapon (*ari*).
4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and only due to previous enmity, he has been made accused in the present matter. He further submitted that applicant is in jail in the present matter since 30.06.2017 i.e. for almost six and half years and till date, trial of the case could not be concluded.
5. He further submitted that in the charge sheet, there are as many as nine prosecution witnesses but till date, only three prosecution witnesses could be examined, therefore, it appears that trial of the case is moving with languid pace and there is no hope of its early disposal and, therefore, considering the long incarceration the applicant of six and half years, he may be enlarged on bail.

6. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that applicant is the principal accused, who caused injury through sharp edged weapon on the neck of the deceased and post-mortem report of the deceased also corroborates the allegation made against the applicant.

7. They further submitted that however, applicant is in jail for almost six and half years but in such type of matter where minimum punishment is life imprisonment, it is not proper to release the applicant on bail merely on the ground of long incarceration of six and half years.

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

9. However, it appears that applicant is in jail since June, 2017 i.e. for almost six and half years but it appears that he is the main accused, who caused injury on the neck of the deceased and post-mortem report of the deceased also corroborates the allegation made against the applicant, therefore, I am not inclined to release the applicant on bail at this stage.

10. Accordingly, the instant bail application is **rejected**.

11. 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.

12. However, considering the fact that applicant is in jail for last six and half years, trial court is directed to conclude the trial of the case within a period of eight months from the date of production of certified copy of this order, strictly as per the provisions of Section 309 Cr.P.C. on day-to-day basis without granting any unnecessary adjournment to either of the parties, if there is no legal impediment.

Order Date :- 30.11.2023

KK Patel