

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 55363 of 2022

Applicant :- Kamal Mahaur

Opposite Party :- State of U.P.

Counsel for Applicant :- Kashi Naresh Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Kashi Naresh Mishra, learned counsel for the applicant 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. 340 of 2022, under Sections 302, 201 IPC, Police Station Sasni Gate, District Aligarh, during pendency of the trial in the court below.
3. FIR of the present case was lodged against unknown person and according to the FIR, father of the informant had gone from his house but did not return and in this regard, a missing report was lodged but on 26.6.2022 his dead body was found.
4. Learned counsel for the applicant submitted that nobody was named in the FIR and during investigation when name of one Rahul Jatav was surfaced in the present matter then he was arrested and he confessed his guilt and disclosed the name of the applicant.
5. He further submitted that except the statement of co-accused Rahul Jatav and confessional statement of the applicant before the police, there is no other evidence agaist the applicant on record.
6. He further submitted that co-accused Rahul Jatav has already been released on bail by the co-ordinate bench of this Court and he placed the bail order of co-accused Rahul Jatav during the course of argument which is taken on record and marked as 'A'.
7. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 30.6.2022, i.e. for more than a year.

8. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that except the statement of co-accused Rahul Jatav and confessional statement of the applicant, there is no other evidence against the applicant on record and applicant is in jail in the present matter since June, 2022.

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

10. It is a case of circumstantial evidence and name of the applicant was surfaced during investigation through the statement of co-accused Rahul Jatav and it appears that except the statement of co-accused Rahul Jatav and confessional statement of the applicant, there is no other evidence against the applicant on record.

11. Further, the applicant is in jail in the present matter for more than a year and co-accused Rahul Jatav has already been released on bail by the co-ordinate bench of this Court.

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

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

14. Let the applicant-**Kamal Mahaur**, 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.

15. 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.

16. 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 :- 16.10.2023

Ankita