

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45078 of 2023

Applicant :- Ganesh Pratap Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Shri Prakash Dwivedi

Counsel for Opposite Party :- G.A.,Anand Kumar Pandey,Kamlesh Kumar Bharti

Hon'ble Sameer Jain,J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Shri Prakash Dwivedi, learned counsel for the applicant, Sri Kamlesh Kumar Bharti, learned counsel for the informant and Sri Ajit Kumar Madhesiya, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 42 of 2023, under Sections 302, 364, 201, 34, 120-B IPC, Police Station- Ghorawal, District-Sonbhadra, during pendency of the trial in the court below.
4. FIR of the present case was lodged against three accused persons (non applicant) and according to the FIR, son of the informant was kidnapped by nominated accused persons.
5. Learned counsel for the applicant submitted that initially FIR of the present case was lodged under Section 364 IPC but after recovery of the dead body of the son of the informant, case was converted under Section 302 IPC.
6. He further submitted that applicant was not named in the FIR but when the nominated accused Indrajeet Yadav was arrested then he confessed his guilt and he disclosed the name of the applicant. He further submitted that when applicant was arrested then it is alleged that he confessed his guilt. He further submitted that except the confessional statement of the applicant and statement of co-accused Indrajeet, there is no other evidence against the applicant on record.

7. He further submitted that number of other accused persons have been released on bail by co-ordinate Bench of this Court and their bail orders have been annexed as Annexure No. 13 to the affidavit. He further submitted that case of applicant is at par with them.

8. He further submitted that although, applicant was having previous criminal history of two cases but at the time of arrest, he was also implicated in two other cases of Sections 307 IPC and Arms Act and criminal history has been explained in the supplementary affidavit filed in support of the instant bail application.

9. He further submitted that applicant is in jail in the present matter since 26.03.2023 i.e. for more than six months.

10. Per contra, learned AGA as well as learned counsel for the informant although, opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

12. However, it appears that applicant is having criminal history of about four cases and out of four cases, two cases were previous one but in other two cases, he was made accused at the time of arrest in the instant matter and criminal history of the applicant has been explained in the supplementary affidavit filed in support of the instant bail application.

13. Further, it is a case of circumstantial evidence and applicant was not named in the FIR and during investigation his complicity was revealed through the statement of co-accused Indrajeet Yadav and it further reflects from the record that except the statement of co-accused Indrajeet Yadav and confessional statement of applicant, there is no other evidence against the applicant on record.

14. Further, number of other accused persons have been enlarged on bail by co-ordinate Bench of this Court and on merit case of applicant is at par with them.

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

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

17. Let the applicant- **Ganesh Pratap 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.

18. 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.

19. 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 :- 27.10.2023

KK Patel