

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45514 of 2023

Applicant :- Chandraveer @ Chandu

Opposite Party :- State of U.P.

Counsel for Applicant :- Geetam Singh

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. List revised.
2. Heard Sri Geetam Singh, learned counsel for the applicant, Sri Ajay Singh, learned AGA-I for the State and perused the material on record.
3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Chandraveer @ Chandu, seeking enlargement on bail during trial in connection with Case Crime No. 150 of 2023, under Sections 195, 211, 302/34 I.P.C. registered at P.S. Dholna, District Kasganj.
4. The F.I.R. of the matter was lodged on 04.6.2023 by Chandraveer Singh alleging an attempt to murder of his brother Manoj Kumar @Babu against unknown person. The F.I.R. was lodged under Section 307 I.P.C. Subsequently the same was converted into a case under Sections 302/34, 195, 211 I.P.C. after death of the deceased.
5. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that during investigation the informant, who is the applicant, was found to be an accused in the statements of the applicant and the co-accused Jitendra and Mukesh wherein it has been stated that co-accused Jitendra gave some intoxicating tablets and injections to the deceased/Manoj Kumar@Babu prior after which he fell down and was murdered. It is further argued that co-accused Mukesh is stated to have been the person who had assaulted the deceased. It is argued that co-accused Mukesh and Jitendra have been granted bail by co-ordinate Benches of this Court vide order dated 18.10.2023 passed in Criminal Misc. Bail Application No. 43077 of 2023 and vide order dated 07.8.2023 passed in Criminal Misc. Bail Application No. 34367 of 2023 respectively, copies of the said orders are annexure no. S.A.-2 to the supplementary affidavit dated 26.10.2023. It is argued that the present case is a case of circumstantial in nature and chain of circumstances are missing. It is argued that charge sheet in the matter has been submitted and as such there are no chances of the applicant tempering with the evidence or not to co-operate in the investigation. While placing para-23 of the affidavit it is argued that nothing incriminating material has been recovered either on the pointing out or possession of the applicant. It is argued that the applicant is stated to be involved in one other case of the year 2015 in which he has been released on bail, para-24 of the affidavit being disclosure and explanation and annexure no. 15 being the order granting bail have been placed before the Court to buttress the said argument. The applicant is in jail since 08.6.2023.

6. Per contra, learned State counsel opposed the prayer for bail but could not dispute the fact that co-accused Mukesh and Jitendra have been granted bail by co-ordinate Benches of this Court.

7. After having heard learned counsels for the parties and perusing the record, it is evident that the applicant is the informant of the case, whose implication in the matter has surfaced during investigation in his confessional statement as well as in the statements of co-accused Jitendra and Mukesh. Co-accused Mukesh and Jitendra have been granted bail by co-ordinate Benches of this Court.

8. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

9. Let the applicant- Chandraveer @ Chandu, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(V) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

10. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the

applicant to prison.

11. The bail application is allowed.

(Samit Gopal,J.)

Order Date :- 8.11.2023

Naresh