

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10901 of 2023

Appellant :- Rakesh Kumar Yadav @ Guddu

Respondent :- State of U.P. and Another

Counsel for Appellant :- Niraj Kumar Dwivedi, Ashish Kumar Dwivedi

Counsel for Respondent :- G.A., Ankur Azad, Shashwat Anand

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the applicant and learned A.G.A. for the State and perused the record.

The instant bail application has been filed on behalf of the applicant with a prayer to release him on bail in Case Crime No. 191 of 2023, under Sections 364, 302, 201, 34 IPC Police Station Karchhana, District- Prayagraj, during pendency of trial.

There is allegation against the applicant of kidnapping of girl, commission of offence of murder, causing disappearance of dead body with common intention along with other co-accused. Learned counsel of the applicant has submitted that main allegation is against the co-accused, Ashish Gautam with whom deceased was having relationship and living in-live in relationship. He has been assigned role of causing murder of deceased. Rope used in the commission of her murder and dead body was recovered from septic tank of his house. It is further submitted that similarly placed co-accused, namely, Deepak Kumar Gautam has already been enlarged on bail by a co-ordinate Bench of this Court vide order dated 06.11.2023 in Criminal Misc. Bail Application 45639 of 2023. It is further submitted that applicant is entitled to be released on bail on the ground of parity. Applicant is in jail since 10.6.2023 and has no criminal history.

Learned A.G.A. has opposed the bail prayer of the applicant but could not dispute the aforesaid facts.

Having regard to the facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, this Court is of the view that the appellant has made out a case for bail. The Court below erred in rejecting the bail application. The impugned order suffers from infirmity and illegality and the same is liable to be set-aside and the appeal is

liable to be allowed.

Accordingly, the appeal is allowed and the impugned order rejecting the bail application of the appellant is set-aside.

Let the appellant, namely, Rakesh Kumar Yadav @ Guddu involved in the above Case be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

- (i) The appellant will not tamper with the evidence during the trial.
- (ii) The appellant will not pressurize/intimidate the prosecution witness.
- (iii) The appellant will appear before the trial court on the date fixed, unless personal presence is exempted.
- (iv) The appellant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
- (v) The appellant 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.

In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 5.12.2023
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