

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46010 of 2023

Applicant :- Naresh

Opposite Party :- State of U.P.

Counsel for Applicant :- Nirbhay Singh

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

By means of the bail application the applicant has prayed to be enlarged on bail in Case Crime No. 509 of 2022 at Police Station- Soron, District- Kasganj under Sections 302, 394, 406 IPC. The applicant is in jail since 22.08.2023.

The bail application of the applicant was rejected by the learned trial court on 27.09.2023.

The following arguments made by Shri Nirbhay Singh, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Paritosh Kumar Malviya, learned AGA-I and Sri Jai Prakash Singh, learned counsel for the informant from the record, entitle the applicant for grant of bail:

1. The delay in lodgment of the FIR in the facts and circumstances of the case is fatal to the prosecution case.
2. The applicant was nominated after much deliberations with interested parties to frame him in the instant case.
3. There is no direct evidence against the applicant.
4. This is a case of circumstantial evidence. However, the

chain of incriminating circumstances against the applicant is not complete.

5. No incriminating article has been recovered from the applicant.

6. The postmortem report opines that cause of death could not be ascertained. There are no antemortem injuries on the person of the deceased.

7. The viscera report has not been produced.

8. The deceased was suffering from tuberculosis and died due to medical complications. Superficial burn injuries on the body of the person are not the cause of death.

9. The applicant does not have any criminal history apart from this case.

10. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant- Naresh 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 below. The following conditions be imposed in the interest of justice:-

- (i) The applicant will not tamper with the evidence or influence any witness during the trial.
- (ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

Order Date :- 7.11.2023

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