

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46023 of 2023

Applicant :- Rameshwar Prasad

Opposite Party :- State of U.P.

Counsel for Applicant :- Shailendra Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Shailendra Singh, learned counsel for the applicant and Sri R.N. Srivastava, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 140 of 2007, under Sections 302, 120B IPC, Police Station Rooria, District Kanpur Dehat during pendency of the trial.
4. FIR of the present case was lodged in the year 2007 against unknown person under Section 302 IPC.
5. Learned counsel for the applicant submitted that applicant was not named in the FIR and his name was surfaced in the present matter through the statement of co-accused Man Singh and even Man Singh only stated that applicant made conspiracy and co-accused Pravendra Singh committed the murder, therefore, it appears that with the aid of Section 120B IPC he was made accused in the present matter.
6. He further submits that however the present case is of the year 2007 but applicant was not aware about the case and local police did not interrogate him and when he came to know about the fact that he is wanted in the present matter and coercive measures are being taken against him then he appeared before the court concerned on 19.07.2023 and since then he is in jail. He further submits that number of other co-accused persons have already been released on bail.

7. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

9. However, it appears that applicant appeared before the trial court after more than 15 years but in the supplementary affidavit applicant categorically stated that no summons were ever served upon him and police never interrogated him or tried to arrest him and he never tried to evade his arrest and when co-accused persons surrendered before the court concerned then applicant came to know that he is wanted in the present matter and thereafter he appeared before the trial court. Further, apart from the statement of co-accused there is no evidence against the applicant on record and with the aid of section 120B IPC he was made accused in the present matter.

10. Further, applicant is in jail since 19.07.2023 and number of co-accused persons have been released on bail.

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

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

13. Let the applicant - **Rameshwar Prasad** 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.

14. 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.

15. 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 :- 12.12.2023

AK Pandey