

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47972 of 2023

Applicant :- Jiyavul

Opposite Party :- State of U.P.

Counsel for Applicant :- Hasan Parvej

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Hasan Parvej, learned counsel for the applicant and Sri Ravi Kant Kushwaha, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 64 of 2023, under Sections 380, 411, 307, 382 & 460 IPC, Police Station Patwai, District Rampur, during pendency of the trial in the court below.
3. FIR of the present case was lodged against three thieves under sections 457, 380, 307 IPC and according to the FIR in the intervening night of 19/20.6.2023 unknown thief entered in the house of the informant and after committing theft, they were running from the house of the informant then Sanjay, Ved Prakash and Jai Prakash chased them and during chase near the temple of village, they opened fire upon Sanjay due to which he sustained injury.
4. It is further mentioned in the FIR that the three thieves ran away after committing theft.
5. Learned counsel for the applicant submitted that nobody was named in the FIR and during investigation, informant himself raised suspicion upon applicant and co-accused Babu on the ground that they were having history of committing theft and thereafter applicant and co-accused Anjar were arrested and it is alleged that they confessed their guilt and on their joint pointing out stolen jewelries of informant were recovered from an orchard.
6. He further submitted that there is no independent witness of the alleged recovery and it appears that the place was public place which was accessible to all.
7. He further submitted that except confessional statement of the

applicant and above recovery, there is no other evidence against the applicant on record.

8. He further submitted that applicant is having criminal history of about ten cases and only due to his criminal history, he has been made accused in the present matter but he has not been made accused in any case after 2007 and all the criminal history was only up to the year 2007.

9. He further submitted that entire criminal history of the applicant has been explained in the affidavit filed in support of the instant bail application.

10. He further submitted that applicant is in jail in the present matter since 4.7.2023 and merely on the basis of criminal history, bail application of the applicant should not be rejected.

11. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is having criminal history of about ten cases and all the ten cases were of theft or of some other serious offences and when he was arrested then on the pointing out of the applicant and co-accused the stolen jewelries of the informant were recovered and at the time of recovery, informant identified the same and therefore, applicant should not be released on bail.

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

8. Applicant is having previous criminal history of ten cases and after his confession on the pointing out of the applicant and co-accused, the alleged stolen jewelry of the informant were recovered and informant identified the same. Further, during theft one person sustained fire arm injuries caused by the accused persons.

13. Therefore, considering the aforesaid facts and circumstances of the case, I am not inclined to release the applicant on bail.

14. Accordingly, the instant bail application stands ***rejected***.

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 :- 8.11.2023

Ankita