

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47146 of 2023

Applicant :- Atul @ Arpit Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Jatan Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Ram Jatan Yadav, learned counsel for the applicant and Sri Manoj Kumar Singh, learned brief holder for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 18 of 2023, under Sections 302, 120-B IPC & 25/27 Arms Act, Police Station- Mirhachi, District- Etah, during pendency of the trial in the court below.
3. F.I.R. of the present case was lodged against unknown person and according to the F.I.R. the brother of the informant after taking food had gone to his field and did not return and subsequently his dead body was found.
4. Learned counsel for the applicant submits, F.I.R. of the present case was lodged against unknown persons but during investigation when the statement of the informant was recorded under Section 161 Cr.P.C. then he raised suspicion against the wife of the deceased and thereafter the wife of the deceased was made accused in the present matter and when she was arrested then after her arrest she confessed her guilt and disclosed the name of the applicant.
5. He further submitted that it is alleged that when applicant was arrested then he confessed his guilt and from his pointing out, one country-made pistol was recovered but till date, the alleged recovered weapon could not be connected with the instant crime. He further submitted that except the confessional statement of the applicant, statement of co-accused and recovery of country-made pistol, there is no other evidence against the applicant.
6. He further submitted that co-accused Aman has already been released on bail and on merit case of applicant is at par with him.
7. He further submitted that applicant is not having any criminal

history and he is in jail since 01.02.2023.

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

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

10. Considering the fact that it is a case of circumstantial evidence and only evidence against the applicant is his confessional statement before the police, statement of co-accused and recovery of country-made pistol and co-accused Aman has already been released on bail, in my view, applicant is also entitled to be released on bail.

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

12. Let the applicant- **Atul @ Arpit Kumar** 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.

13. 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.

14. 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 :- 6.11.2023

KK Patel