

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46609 of 2023

Applicant :- Sanket @ Saket Sahu

Opposite Party :- State of U.P.

Counsel for Applicant :- Mahesh Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri M.K. Tripathi, learned counsel for the applicant and Dr. S.B. Maurya, learned AGA-I for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 46 of 2023, under Sections 302, 201 IPC, Police Station- Baragaon, District- Jhansi, during pendency of the trial in the court below.

3. FIR of the present case was lodged against unknown person and according to the FIR, son of the applicant aged about 20 years on 05.02.2023 had gone from his house but did not return and on 07.02.2023 informant lodged a missing report and on 09.02.2023 his dead body was found near the canal in the village Saitol.

4. Learned counsel for the applicant submitted that applicant was not named in the FIR and after four months on the information furnished by police informer, he was made accused in the present matter and it is alleged that he confessed his guilt and on his pointing out, from the Almira of the applicant, one camera of Nikon company, one lead and flash light of the camera were recovered, which alleged to have belonged to the deceased. He further submitted that totally on the basis of false recovery, applicant has been made accused in the present matter. He further submitted that in fact nothing incriminating was recovered from the possession of the applicant.

5. He further submitted that it is improbable that after committing the murder of the deceased, applicant would keep his belongings in his Almira. He further submitted that merely on the basis of recovery of camera, ect., at this stage, it cannot be said that applicant committed the murder of the deceased. He further submitted that except the confessional statement of the applicant

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

6. He further submitted that applicant is not having any criminal history and he is in jail since 13.06.2023.

7. Per contra, learned AGA opposed the prayer for bail and submits that deceased was a photographer and on the pointing out of the applicant, from his Almira, camera, lead and flash light of the camera of the deceased were recovered and at this stage, prima facie, it appears that applicant involved in commission of the instant crime, therefore, he should not be released on bail.

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

9. It is a case of circumstantial evidence and however, from the record, it reflects that as per the prosecution, after his arrest, applicant made confession before the police and thereafter on his pointing out, from his Almira, Nikon camera, lead and flash light of the camera of the deceased were recovered but the name of the applicant was surfaced in the present matter after four months through the information furnished by the police informer.

10. Further, I find force in the argument advanced by learned counsel for the applicant that merely on the basis of alleged recovered items, at this stage, prima facie, it cannot be said that applicant committed the murder of the deceased.

11. Further, applicant is not having any criminal history and he is in jail since 13.06.2023.

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

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

14. Let the applicant- **Sanket @ Saket Sahu** 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.

15. 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.

16. 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 :- 17.11.2023

KK Patel