

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46747 of 2023

Applicant :- Hariom

Opposite Party :- State of U.P.

Counsel for Applicant :- Satyendra Narayan Singh, Pankaj Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Satyendra Narayan Singh, learned counsel for the applicant and Dr.S.B.Maurya, learned AGA-I, for the State.
2. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.211 of 2023, under Sections 364, 302, 201 and 120B IPC, Police Station Civil Lines, District Etawah during pendency of the trial.
3. FIR of the present case was lodged against one Pappu alias Gandharv and according to the FIR, on 8.9.2023 the brother-in-law (jija) of the informant had taken her husband under the pretext to provide him tea but her husband did not return. It is further mentioned in the FIR that informant was having suspicion that her brother-in-law abducted her husband.
4. Learned counsel for the applicant submits that initially FIR of the present case was lodged under Section 364 IPC but after recovery of dead body of the husband of the informant case was converted under Section 302 IPC.
5. He further submits that applicant was not named in the FIR and during investigation it is alleged that when the nominated accused Pappu alias Gandharv along with other accused persons were arrested then he disclosed the name of applicant.

6. He further submits that as per prosecution when applicant was arrested then he also confessed his guilt before the Police.
7. He further submits that except the statement of co-accused and the confessional statement of applicant, there is no other evidence against the applicant on record.
8. He further submits that admittedly the dead body of the deceased was recovered on the pointing out of the nominated accused Pappu alias Gandharv and others and it was not recovered on the pointing out of applicant.
9. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 13.9.2023.
10. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by the learned counsel for the applicant.
11. I have heard learned counsel for the parties and perused the record of the case.
12. Considering the fact that only evidence against the applicant is the statement of co-accused and his confessional statement before the Police, 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-**Hariom** 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 :- 3.11.2023
SKM