

Court No. - 84

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47077 of 2023

Applicant :- Ramnath Nishad

Opposite Party :- State of U.P.

Counsel for Applicant :- Aqueel Ahmad

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Sadhna Rani (Thakur),J.

Heard learned counsel for the applicant, learned A.G.A. and perused the record.

This is the second bail application moved on behalf of applicant Ramnath Nishad with a prayer to release him on bail in Case Crime No.494 of 2020, under Section 302 I.P.C., Police Station Maharajpur, District Kanpur Nagar.

The first bail application of the applicant was rejected by this Court on 01.09.2022.

It is argued by the learned counsel for the applicant that the applicant is languishing in jail since 15.08.2020. The statements of five witnesses have been recorded by the trial court and in the statements of these witnesses there are material contradictions. Both the eye witnesses Dipu and Sandeep in their statements have stated that alongwith Ramnath Nishad, Ramkishan, Rambabu and his wife Unna were also thrashing the deceased, thus, drawing the attention of the Court towards this contradiction the prayer of second bail is sought.

Learned A.G.A., however, opposed the prayer and submitted that as per FIR there are only two eye witnesses of the incident and both the witnesses have supported the prosecution version.

If we go through the FIR it is clearly mentioned therein that Dipu and Sandeep witnessed that Ramnath Nishad, the present applicant after thrashing the wife of the first informant was running with the baton and at some distance Unna, the wife of Ramnath Nishad, his sons Ram Babu and Ramkishan were also present there. If we go through the statements of PW-2 and PW-4 Dipu and Sandeep dated 14.12.2021 and 18.07.2022 respectively, both the witnesses have

stated that Ram Babu, Ram Kishan and Unna were also thrashing their mother. If we check the dates the statements of these witnesses, which are 14th December, 2021 and 18th July, 2022 respectively after these dates on 01.09.2022 the impugned order was passed, thus the learned counsel for the applicant had enough opportunity to argue this ground and if he has not argued this ground at the time of disposal of first bail application, in the opinion of the Court, he cannot argue or take this ground at this stage. Otherwise also, in the FIR only two eye witnesses have been disclosed apart from Vaishnavi, who is shown to be a minor child of two year of age who is said to have raised alarm at the time of the incident. In the opinion of the Court, as all the prosecution witnesses have supported the prosecution version in their statements, if there is any contradiction in their statements that contradiction cannot be a ground of second bail of the accused. The only contradiction mentioned above in the opinion of the Court cannot be a ground for considering second bail application.

So far as the ground that applicant is languishing in jail since 15.08.2020 is concerned, the first bail application was rejected on 01.09.2022 and since then about 14 months have been passed but this period, in the opinion of the Court, for the offence under Section 302 IPC cannot be said to be enough for releasing the applicant on bail.

The second bail application is, thus, **rejected**.

However, the trial court is directed to expedite the hearing and decide the aforesaid case, as expeditiously as possible, preferably within a period of one year from the date of production of the certified copy of this order.

Order Date :- 6.11.2023

Radhika