

Court No. - 37

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48124 of 2023

Applicant :- Irfan

Opposite Party :- State of U.P.

Counsel for Applicant :- Hasan Parvej

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

By means of the bail application the applicant has prayed to be enlarged on bail in Case Crime No.49 of 2023 at Police Station-Jalalabad, District-Shahjahanpur under Sections 302, 364, 201, 120B IPC. The applicant is in jail since 29.01.2023.

The bail application of the applicant was rejected by the learned trial court on 08.08.2023.

The following arguments made by Shri Hasan Parvej, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Paritosh Kumar Malviya, learned AGA-I from the record, entitle the applicant for grant of bail:

1. There is no direct evidence against the applicant.
2. This is a case of circumstantial evidence.
3. The chain of incriminating circumstances against the applicant is not complete and the prosecution evidence does not link the applicant with the offence.
4. The delay in lodgment of the F.I.R. in the facts of the

case is fatal to the prosecution case.

5. The witness of last seen claims to have knowledge that the deceased accompanied the applicant and six other persons on his last journey. However, he failed to disclose the same for six days after disappearance of the applicant.

6. There is no proximity of evidence of last seen with the time and death.

7. The deceased was a habitual drunkard who was prone to getting into fights with people after drinking sessions.

8. The applicant does not have any criminal history apart from this case.

9. The applicant claims congruency in role and seeks parity in relief granted to the co-accused-Pushpendra @ Rahul who has been granted bail by this Court on 10.07.2023 in Criminal Misc. Bail Application No.29825 of 2023.

10. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant-**Irfan** be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

(i) The applicant will not tamper with the evidence or influence any witness during the trial.

(ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

Order Date :- 5.12.2023

Ashish Tripathi