

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47943 of 2023

Applicant :- Monishkant Sharma

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

By means of the the bail application the applicant has prayed to be enlarged on bail in Case Crime No. 174 of 2023 at Police Station- Hathras Kotwali, District- Hathras under Sections 302, 307, 147, 148, 149, 34 IPC and Section 3/25/27 Arms Act. The applicant is in jail since 30.08.2023.

The bail application of the applicant was rejected by the learned trial court on 09.10.2023.

The following arguments made by Shri Sanjay Kumar Dubey, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Paritosh Kumar Malviya, learned AGA-I and Sri Mohit Kumar, learned counsel holding brief of Sri Nasiruzzaman, learned counsel for the informant from the record, entitle the applicant for grant of bail:

1. The applicant was not named in the FIR.
2. The applicant has not been identified as the principal offender who inflicted the gun shot injury suffered by the deceased.

3. No role of commission of offence has been made in the statement of the eye witnesses.
4. Major inconsistencies in the F.I.R., statements of the victim under Section 161 Cr.P.C. and under Section 164 Cr.P.C. discredit the prosecution case.
5. The role of the applicant is distinguishable from the principal offender Gaurav Chaudhary who inflicted the fatal injury to the deceased.
6. The applicant has explained his criminal history. It is contended that the applicant belongs to the economically poor strata of the society and is a convenient scapegoat for the police authorities. The applicant has been falsely nominated in a number of cases only to show the proficiency of the police investigators. The said cases do not have any bearing on the instant bail application.
7. 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- Monishkant Sharma 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 :- 8.11.2023

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