Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48421 of 2023

Applicant :- Deepak@ Hanuman
Opposite Party :- State of U.P.
Counsel for Applicant :- Anil Kumar Shukla
Counsel for Opposite Party :- G.A.

Hon'ble Siddharth,J.

Supplementary affidavit filed by learned counsel for the applicant is taken on record.

Heard learned counsel for the applicant and learned A.G.A.

The instant bail application has been filed on behalf of the applicant, Deepak@ Hanuman, with a prayer to release him on bail in Case Crime No. 173 of 2022, under Sections 302,120-B IPC and section 7 Criminal Law Amendment Act Police Station Bhopa, District-Muzaffarnagar, during pendency of trial.

There is allegation in the First Information Report against three unnamed accused and one Sweety wife of deceased regarding commission of offence of murder and hatching criminal conspiracy.Learned counsel for the applicant has submitted that applicant was not named in the First Information Report. Subsequently he has been arrested and confessional statement of applicant was recorded and on the basis of same co-accused,Gaurav Nepali, Rajeev Tomar alias Rajeev Fauji and Ankit @ Sanny have been implicated.Learned counsel for the applicant has further submitted there is allegation in the First Information Report that deceased was living apart from co-accused, Sweety and his children.It is a case of single shot.It is not clear who is author of the said injury.Recovery of country made pistol was made from the open place. Applicant has been falsely implicated in this case. Co-accused,Ankit @ Sanny and Rajeev Tomar @ Rajeev Fauji have been enlarged on bail vide orders dated 21.2.2023 in Criminal Misc. Bail Application Nos.49933 and 48350

of 2022. No witness has been examined before the trial court. The applicant is in jail since 10.7.2022. He has criminal history of six cases, which has been explained in paragraph-2 of the supplementary affidavit. .

Learned A.G.A. has opposed the bail prayer of the applicant but could not dispute the aforesaid facts.

Keeping in view the nature of the offence, evidence, complicity of the accused; submissions of the learned counsel for the parties noted above; finding force in the submissions made by the learned counsel for the applicant; keeping view the uncertainty regarding conclusion of trial; one sided investigation by police, ignoring the case of accused side; applicant being under-trial having fundamental right to speedy trial; larger mandate of the Article 21 of the Constitution of India; considering the dictum of Apex Court in the recent judgment dated 11.07.2022 of the Apex Court in the case of ***Satendra Kumar Antil vs. C.B.I., passed in S.L.P (Crl.) No. 5191 of 2021***; considering 5-6 times overcrowding in jails over and above their capacity by the under trials and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed

Let the applicant be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

1. The applicant shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation or trial.

2. The applicant shall cooperate in the trial sincerely without seeking any adjournment.

3. The applicant shall not indulge in any criminal activity or commission of any crime after being

released on bail.

4. That the applicant shall not, directly or indirectly, make any 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 to any police officer;

5. The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence and the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law to ensure presence of the applicant.

6. The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Order Date :- 6.12.2023

Atul kr. sri.

Digitally signed by :-
ATUL KUMAR SRIVASTAVA
High Court of Judicature at Allahabad