

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48303 of 2023

Applicant :- Vishal

Opposite Party :- State of U.P.

Counsel for Applicant :- Vipin Chandra Pandey

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.283 of 2023 at Police Station-Trans Yamuna, District-Agra under Section 364, 302, 201, 34 IPC . The applicant is in jail since 02.08.2023.

The bail application of the applicant was rejected by the learned trial court on 04.10.2023.

The following arguments made by Shri Vipin Chandra Pandey, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Suchit Tandon, learned AGA from the record, entitle the applicant for grant of bail:

1. Delay in lodgment of the FIR in the facts of this case is fatal to the prosecution case.
2. The victim failed to turn up at home on the night of 27.07.2023. A missing report was got lodged by the family/first informant on 28.07.2023.
3. The name of the applicant did not figure in the aforesaid report.

4. The prosecution case set out in the FIR is that the deceased had a money dispute with the principal offender Anil and was last seen in the company of said Anil and applicant and another co-accused. However, these facts though in the knowledge of the family members were not brought out promptly in the prosecution case. They were an afterthought.

5. Applicant did not have any motive to kill the deceased.

6. The mobile phone was planted on the applicant to burnish the credentials of the police authorities. There is no independent witness to the recovery.

7. There is no direct evidence against the applicant.

8. At best, this is a case of circumstantial evidence. The chain of incriminating circumstances against the applicant is not complete.

9. Prosecution evidence does not connect the applicant with the offence.

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

11. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to join the trial proceedings. There is no possibility of her 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-**Vishal** 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 :- 9.11.2023
Vandit