

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48784 of 2023

Applicant :- Atar Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Sunil Kumar Kushwaha, Abhishek Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Sunil Kumar Kushwaha, learned counsel for the applicant and Sri Ravi Kant Kushwaha, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 23 of 2023, under Sections 364/34, 302, 120B, 147 IPC, Police Station Dakor, District Jalaun during pendency of the trial.

3. FIR of the present case was lodged under Section 364 IPC against four persons (non applicant) and according to the FIR the father of the informant missed from home on 26.02.2023 and on 27.02.2023 informant filed a missing report. It is further mentioned in the FIR that subsequently informant came to know that nominated accused persons abducted his father.

4. Learned counsel for the applicant submitted that initially FIR of the present case was lodged under Section 364 IPC but after recovery of dead body of the father of the informant, case was converted under Section 302 IPC. He further submits that applicant was not named in the FIR and during investigation when the statement of one Indrajeet Singh was recorded then he raised suspicion against the applicant and others and merely on the basis of suspicion with the aid of Section 120B IPC applicant has been made accused in the present matter. He further submits that except suspicion there is nothing on record against the applicant.

5. He further submits that bail application of co-accused Shatrughan @ Ramsahodar, Mohit Kumar and Phool Singh have already been allowed by the co-ordinate Benches of this Court. He further submits that case of applicant is even at better footing than the case of co-accused, who have already been released on bail. He

further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 30.05.2023 i.e. for almost six months.

6. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that except suspicion there is no other evidence against the applicant on record and three accused persons have already been enlarged on bail and case of applicant is at better footing than those accused persons.

7. I have heard learned counsel for the parties and perused the record of the case.

8. Considering the fact that applicant was not named in the FIR and on the basis of suspicion subsequently during investigation he was made accused and three accused persons have been released on bail and case of applicant is even at better footing than them, in my view, applicant is also entitled to be released on bail.

9. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

10. Let the applicant - **Atar Singh** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make 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 any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

11. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

12. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 23.11.2023
AK Pandey