

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49648 of 2023

Applicant :- Nafees @ Kana

Opposite Party :- State of U.P.

Counsel for Applicant :- Manvendra Singh

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma,J.

1. Heard Sri Manvendra Singh, learned counsel for the applicant, learned AGA for the State and perused the record.

2. The instant bail application has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 240 of 1996 under section 307 IPC, Police Station Kareli, District Prayagraj, during the pendency of trial.

3. From the perusal of the records it transpires that initially applicant was enlarged on bail in case crime No. 240 of 1996, P.S. Kareli, District Prayagraj, vide order dated 23.07.1996 and after submission of charge sheet on 11.10.1996 the applicant was summoned and thereafter he appeared before the court concerned.

4. Learned counsel for the applicant contends that from the record it reveals that neither the applicant was summoned nor N.B.W. nor any notice was served upon him.

5. As the charge sheet has been submitted and his presence was wanted in the court regarding trial, later on he was arrested in compliance of the N.B.W. issued against him and was produced before the court on 18.08.2023 and thereafter proceeding under Section 209(B) Cr.P.C. was initiated against him.

6. From the perusal of the record it transpires that till now even charges have not been framed and the case is pending before Additional Sessions Judge, Prayagraj.

7. From the perusal of the record it also transpires that it is a case of bombardment and six country made bombs, one

country made pistol and two live cartridges were recovered from the possession of the applicant. Hence another case under Section 4/5 Explosive Substance Act was also lodged against the applicant as Case Crime No. 344 of 1996, P.S. Kareli, District Allahabad.

8. Learned counsel for the applicant contends that now the applicant is not absconding in aforesaid case under section 4/5 Explosive Substance Act.

9. Learned counsel for the applicant further contends that he has already been enlarged on bail under section 4/5 Explosive Substance Act on 20.05.2023.

10. The applicant is in jail since 18.08.2023. There is no likelihood of his abscondence or tampering with the evidence. In case the applicant is enlarged on bail, he will not misuse the said liberty. 11.. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

11. Considering the facts and circumstances of the case, this bail application is liable to be allowed.

12. Having regard to the submissions made but without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

13. Let the applicant, **Nafees @ Kana**, involved in the aforesaid case crime 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 the conditions that he:

(i) The applicant shall appear before the concerned SHO Kareli, District Prayagraj in S.T.No.1692 of 2023, under section 307 IPC, arising out of Case Crime No. 240 of 1996 till disposal of the case and shall not leave the territory of the Allahabad. The trial court is also directed to conclude the trial within a period of six months from the date of filing of this order, thereafter the trial court shall also communicate the order to this court through Registrar (compliance). Learned Sessions Judge is also directed to transfer both the cases, the case under section 307 IPC and the case under section 4/5 of the Explosive Substance Act in one court for disposal in accordance with law. The case registered as

Case Crime No. 344 of 1996, under section 4/5 Explosive Substance Act shall also be decided within six months from today and result shall also be communicated to this court through Registrar (Compliance)

(ii) shall appear on the date fixed by the trial court;

(iii) shall not tamper with the prosecution evidence;

(iv) shall not pressurize the prosecution witnesses.

14. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 13.12.2023

RPD