

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 58735 of 2022

Applicant :- Guddu

Opposite Party :- State of U.P.

Counsel for Applicant :- Rabindra Tiwari, Akhilesh Kumar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Rabindra Tiwari, learned counsel for the applicant and Sri Ghanshyam Mishra, learned Brief Holder for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 420 of 2018, under Sections 302 and 201 IPC, Police Station Jalalabad, District Shahjahanpur, during pendency of the trial in the court below.

3. Learned counsel for the applicant submitted that this is the second bail application filed on behalf of the applicant. The first bail application of the applicant has been dismissed by this Court vide order dated 18.11.2019 and he is pressing the instant second bail application on the ground that applicant is in jail since 18.8.2019 i.e. for more than four years and till date, trial of the case could not be concluded.

4. He further submitted that in the charge sheet there are as many as 19 prosecution witnesses but till date only 6 prosecution witnesses could only be examined, therefore, trial of the case is moving with languid pace and there is no hope of its early disposal.

5. He further submitted that applicant is the husband of the deceased and it is a case of circumstantial evidence and applicant is having no criminal history, therefore, considering the totality of the facts and circumstances of the case particularly the long incarceration of the applicant of more than four years, he should be released on bail.

6. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is husband of the deceased and after

considering the entire facts of the case, the first bail application was dismissed and it appears that the deceased i.e. wife of the applicant died due to strangulation and on the pointing out of the applicant, her dead body was recovered and therefore, it would not be proper if merely on the basis of incarceration of four years, applicant be released on bail and therefore, the instant bail application should be dismissed.

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

8. From the perusal of the record, however, it reflects that applicant is in jail since August, 2019 i.e. for more than four years but applicant is husband of the deceased and his wife was strangled and her dead body was recovered on the pointing out of the applicant and the instant bail application is second bail application and first bail application has already been dismissed on merit by the this Court and therefore, I am not inclined to enlarge the applicant on bail.

9. Accordingly, the instant second bail application stands ***rejected***.

10. However, considering the fact that applicant is in jail for more than four years, trial court is directed to conclude the trial within nine months from the date of production of certified copy of this order, strictly as per the provision of section 309 Cr.P.C. on day-to-day basis without granting any unnecessary adjournment to either of the parties, if there is no legal impediment.

11. 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 :- 26.10.2023

Ankita