

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51198 of 2023

Applicant :- Ramkesh @ Lala

Opposite Party :- State of U.P.

Counsel for Applicant :- Bhagwan Dutt Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Ashutosh Srivastava,J.

1. Heard Shri Bhagwan Dutt Pandey, learned counsel for the applicant, learned AGA for the State and perused the entire material available on record.

2. This is the second bail application filed by the applicant. The first bail application filed by the present applicant was rejected by this Court by means of a detailed order dated 6.5.2022 passed in Criminal Misc. Bail Application No. 20647 of 2020 (Ramkesh @ Lala Vs. State of U.P.), a copy of which has been brought on record as Annexure-1 to the application.

3. The applicant-Ramkesh @ Lala, has filed this second bail application with a prayer to enlarge him on bail in Case Crime No. 23 of 2020, under Sections 498-A, 304-B I.P.C. and Sections 3/4 D.P. Act, Police Station-Purandpur, District-Maharajganj, during the pendency of the trial.

4. In support of this second bail application, learned counsel for the applicant has reiterated the entire submissions made in the first bail application, which are not necessary to mention herein again by this Court.

5. Apart from the above, learned counsel for the applicant submits that till date only one witness has been examined by the prosecution. Learned counsel for the applicant submits that first informant Raj Bahadur -PW1, while deposing before the Court below, has not supported the case of prosecution and resiled from his earlier statement, recorded before the Police under Section 161 Cr.P.C., and has been declared hostile. The said witness was cross examined by the Public Prosecutor, but he did not support the case of the prosecution. Learned counsel for the applicant submits that while rejecting the first bail application of the applicant, vide order

dated 6.5.2022, this Court required the trial court to conclude the trial of the aforesaid case, expeditiously, preferably, within one year, but the trial of the aforesaid case has not been concluded. He, therefore, submits that on this ground, the applicant is liable to be enlarged on bail.

6. Learned counsel for the applicant next submits that the applicant is in jail since 22.2.2020 and he has undergone incarceration more than three years i.e. 3 years 9 months. He therefore, prays that considering the period of detention, P.W.-1, First informant, father of the victim becoming hostile, as well as status of the trial which is not likely to be concluded in near future, the applicant may be enlarged on bail.

7. Lastly, learned counsel for the applicant submits that the applicant has no criminal antecedents to his credit, except the present one, and there is no possibility of the applicant of fleeing away from the judicial process or tampering with the witnesses and in case, the applicant is enlarged on bail, the applicant shall not misuse the liberty of bail.

8. On the other hand, learned A.G.A. for the State has opposed the submissions made by the learned counsel for grant of bail to the applicant.

9. Having heard learned counsel for the parties and gone through materials placed on record, it is apparent that PW1-Raj Bahadur, first informant of the case, has not supported the case of the prosecution and declared hostile. PW-1 has deposed, before the Court below, that applicant and his family members never demanded dowry from the deceased nor maltreated her. PW1 was thereafter cross examined by the Public Prosecutor but Public Prosecutor failed to establish the case of the prosecution.

10. Considering all those facts and circumstances, the nature of accusations, severity of the punishment in the case of conviction and nature of supporting evidence, reasonable apprehension of tampering with the witness and prima facie case, but without commenting on merit of case, a case for bail is made out.

11. Accordingly, the bail application is ***allowed***.

12. Let the accused-applicant, ***Ramkesh @ Lala***, involved in above mentioned case crime number be released on bail, on his executing a personal bond and two reliable sureties each, in the like amount to the satisfaction of the court concerned, subject to

the following conditions:

1. The applicant will not tamper with the evidence.
2. The applicant will not indulge in any criminal activity.
3. The applicant will not pressurize/intimidate the prosecution witnesses and co-operate in the trial.
4. The applicant will appear regularly on each and every date fixed by the trial court, unless his personal appearance is exempted through counsel by the court concerned.

In the event of breach of any of the aforesaid conditions, the court below will be at liberty to proceed to cancel his bail.

Order Date :- 15.12.2023

Ravi Prakash

(Ashutosh Srivastava, J.)