

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49951 of 2023

Applicant :- Balveer

Opposite Party :- State of U.P.

Counsel for Applicant :- Vijay Bahadur Shivhare

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Shri Vijay Bahadur Shivhare, learned counsel for the applicant, Dr. S. B. Maurya, learned A.G.A.-I for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.331 of 2023, under Sections 302, 201, 34, 342 IPC, Police Station Sumerpur, District Hamirpur, during pendency of the trial in the court below.

3. FIR of the present case was lodged on 07.07.2023 against unknown person and according to the F.I.R., on 06.07.2023 at about 11:30 to 12:30 in the night the son of the informant was making conversation on phone with someone and 07.07.2023 at about 6:00 a.m. in the morning informant came to know that dead-body of his son is lying in the field.

4. Learned counsel for the applicant submits that nobody was named in the F.I.R. but during investigation I.O. recorded statement of one Sachin and he stated that on 05.07.2023 at about 4:00 in the evening when he was going alongwith the deceased, on the way deceased threw a paper chit at the door

of one house where a lady was standing and he also scolded the deceased in this regard.

5. He further submits that as per prosecution, the said lady was daughter-in-law of the applicant and only due to this reason applicant committed murder of the deceased.

6. He further submits that applicant has given a weak motive and merely on the basis of such motive, it cannot be said that applicant committed murder of the deceased.

7. He further submits that as per prosecution when applicant was arrested then he confessed his guilt and on his pointing out two blood-stained wooden sticks were recovered but merely on the basis of such blood-stained wooden sticks, at this stage, prima-facie, it cannot be said that applicant involved in the present matter.

8. He further submits that as per C.D.R. report on the date of incident applicant had conversation with the deceased but this evidence is also not sufficient to connect the applicant with the instant crime.

9. He further submits that applicant is not having any previous criminal history and he is in jail in the present matter since 08.07.2023 i.e. for more than four months, therefore, he may be released on bail.

10. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

11. I have heard learned counsel for both the parties and

perused the record of the case.

12. It is a case of circumstantial evidence and it appears that on the basis of statement of one Sachin, applicant has been made accused in the present matter and from perusal of the statement of Sachin, it appears that he tried to attribute the motive to the applicant but motive given by him appears to be weak.

13. Further, however, as per prosecution on the pointing out of the applicant two blood-stained wooden sticks were recovered and on wooden sticks human blood was found and on the date of incident, applicant had conversation on phone with the deceased but in my view, at this stage, merely on the basis of these two evidences, prima-facie, it cannot be said that the applicant committed murder of the deceased as it could not be found that blood on the alleged wooden sticks was of the deceased.

14. Further, applicant is not having any previous criminal history and he is in jail in the present matter since 08.07.2023 i.e. for more than four months.

15. Therefore, considering the facts and circumstances of the case, discussed above, in my view, applicant is entitled to be enlarged on bail.

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

17. Let the applicant-**Balveer**, 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.

18. 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.

19. 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 :- 22.11.2023

Zafar