

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51055 of 2023

Applicant :- Nitin Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pavan Kumar Pandey, Ashok Kumar Rai

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Shri Mangla Prasad Rai, learned Senior Counsel assisted by Shri Pavan Kumar Pandey, learned counsel for the applicant and Dr. S. B. Maurya, learned AGA-I for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.174 of 2023, under Section 302, 201, 34 I.P.C., Police Station Kishanpur, District Fathepur, during pendency of the trial in the court below.

3. FIR of the present case was lodged on 30.06.2023 against four persons (non-applicant) and according to the FIR, nominated accused persons committed the murder of the brother of the informant.

4. Learned Senior Counsel for the applicant submits that applicant was not named in the FIR but according to the prosecution case, when applicant was arrested alongwith the nominated accused persons, he also confessed his guilt and from his possession the broken sim card of the deceased was recovered.

5. He next submits that according to the prosecution case,

during investigation, Investigating Officer also recorded the statement of Komal Singh and she stated that she heard the voice of applicant and co-accused Narsingh and Jaysingh from the house of Inder Singh and thereafter, it was found that dead-body of the deceased was found near the forest and merely on the basis of her statement, it cannot be said that applicant committed murder of the deceased.

6. He further submits that even her statement appears to be unconvincing and no reliance can be placed on such version.

7. He further submits that except statement of Komal Singh and recovery of the broken sim card of the deceased from the possession of the applicant, there is no cogent evidence against the applicant on record.

8. He next submits that the applicant is not having any criminal history and he is in jail in the present matter since 02.07.2023.

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

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

11. Considering the fact that only evidence against the applicant is the statement of Komal Singh, which does not appear convincing and recovery of the broken sim card of the deceased from the possession of the applicant and except these, there is no other cogent evidence against the applicant on record, in my view, applicant is entitled to be

released on bail.

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

13. Let the applicant-**Rahul Mishra**, 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.

14. 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.

15. 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 :- 29.11.2023
Zafar