

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51173 of 2023

Applicant :- Vikas Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Lal Bahadur Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Shri Lal Chandra Mishra, Advocate holding brief of Shri Lal Bahadur Yadav, learned counsel for the applicant, Shri Rajeev Dhar Dwivedi, learned A.G.A. for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.220 of 2022, under Section 304 I.P.C., Police Station Mariahun, District Jaunpur, during pendency of the trial in the court below.
3. FIR of the present case was lodged on 22.07.2022 against applicant and 3-4 unknown persons and according to the FIR, applicant alongwith his unknown associates made assault upon the son of the informant and due to the assault made by them, he died.
4. Learned counsel for the applicant submits that admittedly informant of the case is not an eye-witness and even during investigation, no eye-witness could come forward and merely on the basis of information furnished by the villagers, applicant has been made accused in the present matter.
5. He further submits that even statemetns of the so-called villagers could not be recorded by the Investigating Officer.
6. He further submits that even during investigation, no recovery could be made from the possession of the applicant and except his confessional statement, there is no other cognet evidence against

applicant on record.

7. He next submits that applicant is not having any criminal history and he is in jail in the present matter since 29.07.2022 i.e. for almost one and a half years.

8. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that no body could see the incident and except the confessional statement of the applicant before the Police, there is no other cogent evidence against him on record. He further could not dispute the fact that applicant is in jail for almost one and a half years.

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

10. Considering the fact that except the confessional statement of the applicant, there is no other cogent evidence against him on record and even informant of the case is not an eye-witness of the incident and applicant is in jail for almost one and a half years, in my view, applicant is entitled to be enlarged on bail.

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

12. Let the applicant- **Vikas Yadav**, 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.

13. 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.

14. 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 :- 30.11.2023
Zafar