

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52486 of 2023

Applicant :- Rajesh Chauhan

Opposite Party :- State of U.P.

Counsel for Applicant :- Sheetal Prasad Chakravorty

Counsel for Opposite Party :- G.A.

Hon'ble Dr. Gautam Chowdhary,J.

1. Heard learned counsel for the applicant, learned A.G.A for the State and perused the record.

2. Learned counsel for the applicant submits that F.I.R. of the present case was lodged against the applicant and three others and as per version of the F.I.R. father of the informant had gone outside from his house to sell milk in the morning as usually but when he did return till evening, all the family members made search, on 02.01.2023 at about 11:00 a.m. it came into knowledge that dead body of father of informant was lying in an agricultural field near Moosa Road and in the F.I.R. the informant alleged that her father used to say that applicant, Rahul Pal and Krishna were having enmity with him and he made apprehension that the said accused persons would kill him. Learned counsel for the applicant submits that no one has seen the incident, the Investigating Officer has collected the statements of some witnesses, who have stated that on the fateful day the deceased was having dispute with the applicant and with co-accused after consuming liquor, there is no explanation of delay in lodging the FIR, all the accused persons have been generally implicated in this case. Learned counsel for the applicant further submits that chain of incriminating circumstances against the applicant is not complete and no incriminating article has been recovered from the possession of applicant. Learned counsel for the applicant further submits that two co-accused, Krishna @ Damsa and Rahul Pal, who are also named in the F.I.R. have already been granted bail by different coordinate Benches of this Court vide order dated 04.07.2023 and 22.08.2023 passed in Criminal Misc. Bail Application Nos. 21228 of 2023 and 36929 of 2023, respectively, and the case of applicant is not on the worse footing than that of the aforesaid two co-accused persons as general allegations have been made against all the accused persons. Several other submissions in order to

demonstrate the falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. He next submits that applicant is languishing in jail since 04.01.2023, having no criminal history.

3. Per contra, learned A.G.A. has opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence, but he does not dispute that similarly circumstanced aforesaid two co-accused have already been granted bail.

4. After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, without expressing any opinion on merits of the case, this Court is of the view, that the applicant may be enlarged on bail.

5. Let applicant-**Rajesh Chauhan**, involved in Case Crime No. 03 of 2023, under Sections 302/34 I.P.C., Police Station Ghatampur, District Kanpur Nagar, be enlarged on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

(i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

(ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 229-A IPC.

6. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail in accordance with law.

7. The bail application is **allowed**.

Order Date :- 7.12.2023

Mustaqeem.