

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52982 of 2023

Applicant :- Kripa Shankar Alias Pappu

Opposite Party :- State of U.P.

Counsel for Applicant :- Disha Srivastava, Dharendra Kumar
Srivastava, Hari Krishna Singh

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal, J.

1. List revised.
2. Heard Sri Hari Krishna Singh and Sri Dharendra Kumar Srivastava, learned counsels for the applicant, Sri Ajay Singh, learned A.G.A-I for the State and perused the material on record.
3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant-Kripa Shankar Alias Pappu, seeking enlargement on bail during trial in connection with Case Crime No.199 of 2023, under Sections 302, 201 IPC, registered at Police Station Amanpur, District Kasganj.
4. The FIR of the matter was lodged on 12.8.2023 by Amarpal against the applicant and three other persons alleging therein that on 8.8.2023 at about 6 a.m. his chacha Khetpal was playing cards in the room of tubewell in the field of the applicant along with other accused persons. The accused persons murdered him and threw his dead-body in a pond. When his chacha did not come back home, he was searched a lot and then at about 8.30 p.m. his dead-body was found floating there.
5. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that it is a case of circumstantial evidence. It is argued that there is no eye-witness to the murder. The links in the chain of circumstances are missing. It is argued that the first informant is not an eye-witness of the incident. The implication of the applicant is only on the basis of suspicion. It is argued that the police has shown the recovery of a danda on the pointing out of the applicant but there is no corroboration of the use of the same. The FIR has been lodged after four days of the alleged incident and the delay in lodging of the same is totally unexplained. Charge sheet has been submitted in the matter, as such there are no chances of the applicant tempering with the evidence. While placing para 14 of the affidavit it is argued that

the applicant is involved in two other cases out of which one case is under the Gambling Act in which he is on bail whereas the other case is of the year 2014 in which he has been acquitted of the charges levelled vide order dated 30.8.2014. It is argued that there is no credible evidence against the applicant. The applicant is in jail since 8.9.2023.

6. Per contra learned counsel for the State opposed the prayer for bail.

7. After hearing the counsel for the parties and perusing the record, it is evident that the present matter is a matter of circumstantial evidence. There is no credible evidence against the applicant. Charge sheet has been submitted in the matter against the applicant and other co-accused persons. FIR has been lodged after a delay of four days which is totally unexplained.

8. Looking to 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, this Court is of the view that the applicant may be enlarged on bail.

9. Let the applicant-**Kripa Shankar Alias Pappu**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

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.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

10. 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 and send the applicant to prison.

11. The bail application is **allowed**.

(Samit Gopal, J.)

Order Date :- 11.12.2023
Gaurav Kuls