

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53142 of 2023

Applicant :- Anitesh Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Shashank Kumar,Ram Pravesh Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Shashank Kumar,, 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. 143 of 2023, under Sections 302, 452 IPC and Section 3/25 Arms Act, Police Station Chitwara Gaon, District Ballia, during pendency of the trial in the court below.
3. FIR of the present case was lodged against three unknown persons and according to the FIR three unknown persons after entering in the house of the informant shot his daughter aged about 24 years.
4. Learned counsel for the applicant submitted that applicant is the real brother of the deceased and during investigation on the ground that after settlement of her marriage deceased used to talk with the younger brother of his fiance, therefore, being brother, applicant did not like this fact and therefore, he committed her murder by causing fire-arm injury to her.
5. He further submitted that during investigation it was also revealed that at the time of incident, applicant was wearing red T-shirt and police informer informed the Investigating Officer that on the date of incident, the alleged assailant was wearing red T-shirt and thereafter applicant was made accused in the present matter.
6. He further submitted that as per allegation after arrest, applicant confessed his guilt and from his possession one country-made pistol was recovered but in fact, applicant neither confessed his guilt nor any recovery of country-made pistol was made from his possession and entire recovery is false and planted.

7. He further submitted that there is no cogent evidence against the applicant on record and merely on the basis of suspicion, he has been made accused in the present matter.

8. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 9.9.2023.

9. Per contra, learned AGA opposed the prayer for bail and submitted that from the possession of the applicant, country-made pistol was also recovered but could not dispute the fact that till date, alleged recovered country-made pistol could not be connected with the instant crime.

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

11. It is a case of circumstantial evidence and during investigation applicant was made accused in the present matter and he is the real brother of the deceased. From the record it appears that on the basis of suspicion, applicant was made accused in the present matter and thereafter as per prosecution after arrest, he confessed his guilt and from his possession, one country-made pistol was recovered but till date, alleged recovered country-made pistol could not be connected with the instant crime and at this stage, merely on the basis of recovery of country made pistol, it cannot be said that applicant is the person who committed the murder of his sister.

12. Further, applicant is having no criminal history and he is in jail in the present matter since 9.9.2023 i.e. after last more than three months.

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

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

15. Let the applicant-**Anitesh 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.

16. 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.

17. 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 :- 12.12.2023

Ankita