

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1130 of 2023

Applicant :- Harjeet Singh

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt., Lko.

Counsel for Applicant :- Amit Kumar Awasthi, Shubham Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Shri Amit Kumar Awasthi, learned counsel for the accused/applicant as well as learned AGA for the State and perused the record.

2. This second bail application has been moved by the accused/applicant- **Harjeet Singh** for grant of bail, in Case Crime No. 562/2020, under Section 302 IPC, Police Station Maigalganj, District Kheri, during trial, as his first bail application has been rejected by a Coordinate Bench of this Court, vide order dated 27.01.2022 passed in Crl. Misc. Bail Application No. 6401 of 2021.

3. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication and the applicant has not committed any offence as claimed by the prosecution.

4. It is further submitted that the applicant is detained in prison in this case since 24.10.2020 and after passage of 3 years, only three prosecution witnesses have been testified and out of these three prosecution witnesses, only the in-chief examination of the informant could be recorded as thereafter she was not available for cross examination.

5. It is further submitted that in First Information Report, similar role of assault was assigned to all the accused persons, however, co-accused Basant Singh has been granted bail by a Coordinate Bench of this Court, vide order dated 1.9.2021 passed in Crl. Misc. Bail Application No. 2471 of 2021.

6. It is further submitted that having regard to the pace with which the case is travelling before the trial court, the same is not going to conclude in near future and as the informant who

was testified before the trial court in her examination-in-chief is not available for cross examination, the trial would take further time. The applicant is not having any criminal antecedent and having regard to his detention in the prison, the same is a substantial change till the rejection of his first bail application.

7. Learned counsel for the applicant further submits that out of the three prosecution witnesses testified so far before the trial court, the two prosecution witnesses namely, Kaushal and Ram Dheeraj who claimed themselves to be the eye witnesses, have turned hostile.

8. Learned AGA on the other hand submits that the first bail application of the applicant has been rejected by a Coordinate Bench of this Court by a well reasoned order taking into consideration all the facts and circumstances of the case and the statements of the eye witness and there is no change in circumstances since the rejection of the first bail application of the applicant. It is also submitted that apart from those who have been produced before the trial court, two eye witness are still remained to be testified, namely, Ravi and Atul Kumar, apart from the informant Sumitra who would be produced for the cross examination.

9. Having heard learned counsel for the parties and having perused the record, it is transpired from the record that the first bail application of the applicant was rejected by a Coordinate Bench of this Court, via order dated 27.1.2022 and while rejecting the first bail application no time frame was provided by the Coordinate bench for the disposal of trial pending before the trial court having regard to the brutality with which the offence has been committed. This Court on 25.8.2023 had directed the trial court to record the statement of the remaining witnesses, namely, Ravi and Atul immediately, if the same has not been discharged, by issuing a suitable process for procuring their presence. It is informed orally by learned counsel for the applicant that these witnesses have yet not been testified before the trial court. The injury report as well as the postmortem report of the deceased would reveal that he has sustained as many as 12 injuries, many of which are multiple in nature. The role of assault has been attributed to the instant applicant, therefore the role of the applicant is distinguishable from the role of co-accused Basant Singh who has been granted by a Coordinate Bench of this Court.

10. Thus, in the considered opinion of this court, having regard to the manner in which the offense has been committed, I do not find any good ground on the basis of which this second bail application of the applicant may be allowed, in result the same

is *rejected*.

11. Having regard to the apprehension of the applicant that the prosecution is not producing its witnesses for the purposes of keeping the applicant in jail for a long time, the trial court is directed to record all the witnesses of the fact within 4 months from today by issuing all possible process and if the statement of all the prosecution witnesses including the eye witnesses Ravi, Atul Kumar and the cross examination of Sumitra (informant) is not completed within four months from today, the applicant may approach this Court again for renewal of his prayer of bail

Order Date :- 11.10.2023

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