Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 4879 of 2022

Applicant :- Dilsher Ahmad S/O Jalil Ahmad
Opposite Party :- U.O.I. Thru. Director C.B.I New Delhi
Counsel for Applicant :- Sulabh Kr. Srivastava
Counsel for Opposite Party :- Anurag Kumar Singh

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Sulabh Kr. Srivastava, learned counsel for the applicant, Sri Dharmendra Singh holding brief of Sri Anurag Singh, learned counsel for the C.B.I. and perused the records.

2. This is the third application seeking release of the applicant on bail in R.C S.I 2021 S0001 SC N0- 952 of 2021, under Sections 120-B, 302, 201, 420, 506/34 I.P.C., registered at Police Station C.B.I SC1, New Delhi, District Lucknow.

3. As per the case of the CBI, a missing complaint dated 23.12.2020 was filed by Shivam Keshari, son of Ramashankar Keshari, resident of K-64/48, Gola Dinanath, Varanasi through IGRS Portal of U.P. Government alleging there that his brother, Shubham Keshari had been missing from 7 PM on 22.12.2020. When no action was taken on the said application, Shivam Keshari filed applications before the District Magistrate on 26.12.2020, Senior Superintendent of Police, Varanasi, Superintendent of Police (Crime) and also approached the Hon'ble Chief Minister and the Director General of Police, Uttar Pradesh. When whereabouts of his brother were not known, Shivam Keshari filed Habeas Corpus Petition No.1 of 2021 before this Court.

4. After filing the Habeas Corpus Petition on 4.1.2021, the matter was listed before this Court on 5.1.2021 and on the same day, Police Station Kotwali, Varanasi registered a missing report and started inquiring into the allegations/facts mentioned in the complaints filed by Shivam Keshari. Later on, two dead bodies of Shubham Keshari and Ravi Pandey, who had also gone missing since 22.12.2020 and a missing report about him was lodged at Varanasi Police Station, were

recovered on 15.1.2021 from a ditch near Hanuman Pahadi in the hilly area of Village Chhato, Police Station Ahraura, District Mirzapur by the police of Police Station Ahraura. Thereafter, a case under Sections 302 and 201 IPC was registered by the police of the Police Station Ahraura. Later on, it was found by the police of the Police Station Ahraura that these deceased belonged to Varanasi and missing reports of these persons were pending in District Varanasi and, therefore, the case was transferred from Ahraura, District Mirzapur to Varanasi. The case was re-registered in Police Station Kotwali, Varanasi as FIR No.6 of 2021 on 18.1.2021 under Sections 302 and 201 IPC.

5. This Court vide order dated 8.2.2021 passed in Habeas Corpus Petition No.1 of 2021 directed the CBI to take up the investigation of FIR No.6 of 2021. The CBI took over the investigation of the case on 17.2.2021 and re-registered the case as RC SI 2021 S 0001. On conclusion of the investigation, the CBI filed the charge sheet on 16.4.2021 under Sections 120-B, 302, 201, 420, 506 and 34 IPC against Sunil Kumar Nigam, Neeraj Pandey, Parvez, Dilsher (the applicant), Kareem Ansari and Guddu Bharadwaj for the murder of Shubham Keshari and Ravi Pandey, who were friends. The investigation of this case is kept open under Section 173(8) Cr.P.C. and the same is still not completed.

6. As per the evidence collected by the CBI, it was the applciant, who had contacted Shivam Keshari, brother of the deceased Shubham Keshari and falsely informed him in conspiracy with co-accused Sunil Kumar Nigam that Shubham Keshari was taken by the police. Under this wrong impression made by the applicant, co-accused-Shivam Keshari approached this Court by filing Habeas Corpus Petition. The CBI in its investigation, has established that Shubham Keshari was murdered by the accused persons in conspiracy and at the behest of co-accused Sunil Kumar Nigam. They had also murdered Ravi Pandey to eliminate the eye witness of the murder of Shubham Keshari, who accompanied Shubham Keshari at the place of occurrence.

7. The accused persons after murdering Shubham Keshari and Ravi Pandey on 22.10.2020, arranged a vehicle through Guddu Bharadwaj for disposing of the dead bodies. In the early morning hours of 23.12.2020, the accused persons threw dead bodies in the hilly area of Police Station Ahraura, District Mirzapur and poured acid on the dead bodies to destroy the evidence.

8. Applicant's involvement in another case being FIR No.04 of 2019 under Sections 147, 149, 323, 504 IPC, registered at Police Station Mughal Sarai, District Chandauli has been mentioned in para 25 of the rejoinder affidavit.

9. Co-accused person, Sunil Kumar Nigam, against whom allegation is that he had hatched conspiracy for commission of the offence has been granted bail by means of the order dated 19.05.2023 passed in Criminal Misc. Bail Application No.2111 of 2022. Yet another co-accused Parvez has been granted bail by this Court by means of the order dated 10.10.2023 passed in 10446 of 2023.

10. Co-accused-Karim Ansari, who is said to be present on the spot of occurrence along with the applicant has been granted bail by means of the order dated 24.07.2023 passed in Criminal Misc. Bail Application No.1344 of 2023. The case set up against the applicant is similar to that set up against the co-accused, Karim Ansari who has already been granted bail.

11. Having considered the aforesaid facts and circumstances of the case I am of the view that the aforesaid facts are sufficient for making out a case for enlargement of the applicant on bail in the aforesaid crime on the ground of parity.

12. Accordingly, this bail application stands allowed.

13. Let the applicant-Parvez 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 magistrate/court concerned, subject to following conditions:-

(i) the applicant shall not tamper with the prosecution evidence;

(ii) the applicant shall not pressurize the prosecution witnesses;

(iii) the applicant shall appear on each and every date fixed by the trial court.

(Subhash Vidyarthi, J.)

Order Date :- 17.11.2023
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Digitally signed by :-
PRATEEK ARORA
High Court of Judicature at Allahabad,
Lucknow Bench