

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10025 of 2023

Applicant :- Paramjeet

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

Counsel for Applicant :- Ravindra Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard Shri Ravindra Shukla, learned counsel for the applicant, Shri Diwakar Singh, learned AGA for the State and perused the record.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.88 of 2023, under Sections 302, 201 I.P.C. Police Station Kotwali Dehat, District Sultanpur.

3. Learned counsel for the applicant submitted that the FIR has been lodged by nephew of the deceased and applicant has not been named in the FIR. It is submitted that name of the applicant has come in the statement of Shrawan Kumar and Satish Kumar. Learned counsel has invited attention of this Court towards the statement of Shrawan Kumar and Satish Kumar in which they stated that they saw the CCTV footage and it appears that applicant was present on the spot. Learned counsel submitted that the prosecution has not collected evidence of CCTV footage and the entire version on the point of CCTV footage is false and fabricated. Learned counsel further submitted that both witnesses have stated that there was illicit relations of the applicant with one Prabha which was opposed by the deceased. However, both of them have stated that it appears to them that applicant might have committed murder of the deceased and further stated that no one had seen the incident.

4. Learned counsel has submitted there is no incriminating or direct evidence against the applicant and the prosecution has failed to establish the case and only on the basis of surmises and conjectures, the applicant has been falsely implicated. Learned counsel submitted that the statement of Prabha has also not been recorded by the police. The applicant has no criminal history and is in jail since 06.03.2023.

5. On the other hand, learned AGA opposed the prayer for bail and submitted that on the basis of aforesaid two witnesses, it appears that deceased might have been killed by the applicant but he has not been able to show any incriminating or direct evidence which can establish that the applicant was involved in the commission of crime. He also could not dispute the fact that recovery of CCTV footage has not been made by the police.

6. Considering the over all facts and circumstances of the

case and looking to the argument that there is no direct or incriminating evidence against the applicant ; argument that applicant was not named in the FIR ; argument that no CCTV footage has been recovered, as such I find it to be a fit case for bail.

7. Let the applicant **Paramjeet** be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates 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.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) 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. is issued and the 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 of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) 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.

8. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The Trial Court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 10.10.2023

Pks