

**Court No. - 27**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 12410 of 2023

**Applicant :-** Santu Lal

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

**Counsel for Applicant :-** Hanumant Lal Srivastava, Kanchan Rawat

**Counsel for Opposite Party :-** G.A.

**Hon'ble Brij Raj Singh, J.**

1. Heard Shri Hanumant Lal Srivastava, learned counsel for the applicant, Shri Diwakar Singh, learned AGA-I 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.230 of 2022, under Sections 452, 302 IPC., Police Station Sohramau, District Unnao.

3. It is contended by learned counsel for the applicant that FIR has been lodged by the daughter of the deceased in which she has mentioned that in the night of 7/8-10-2022, someone had killed her mother and report was lodged on 8.10.2022 under Sections 452, 302 IPC. Learned counsel for the applicant has submitted that the applicant is not named in the FIR and after six months i.e. on 07.04.2023, statement of one informer has been recorded which indicate that the applicant used to look after agricultural and farming work of the deceased and he informed that the deceased was done to death by the applicant because co-accused Anita was demanding land for construction of house which was refused by the deceased.

4. Learned counsel for the applicant has submitted that after information of the informer, supplementary statement of complainant was also recorded on 07.04.2023 in which for the first time, it was stated that co-accused Anita was creating pressure on the deceased to give land for construction of house which was refused by her mother. She has all doubt that her mother was done to death by co-accused Anita in connivance with the applicant. It has been further mentioned that the applicant had developed relations with co-accused Anita and both of them had committed murder. There is no direct or clinching evidence against the applicant. The supplementary statement of the complainant is recorded after six months in which she has levelled allegation of commission of crime against the applicant which is highly doubtful. It is a case of weak evidence and applicant has been falsely implicated. Learned counsel further submitted that the criminal history of the applicant has been explained in para 4 of the

supplementary affidavit filed on 18.10.2023. The applicant is in jail since 07.04.2023.

5. Learned AGA opposed the prayer for bail and has submitted that the name of the applicant has come into light in the statement of one informer therefore, bail of the applicant is liable to be rejected.

6. Without expressing any opinion on the merits of the case, after hearing learned counsel for the parties and considering the argument that applicant is not named in the FIR and after six months his name has surfaced in the statement of informer; argument that no direct or clinching evidence has been found against the applicant; thus the application for bail of the applicant is liable to be allowed.

7. Let the applicant, Santu Lal 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 :-** 6.12.2023

Pks