

Court No. - 5

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6843 of 2024

Applicant :- Mohd. Asif

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

Counsel for Applicant :- Nijam Ahamad

Counsel for Opposite Party :- G.A.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

2. Instant bail application has been filed with a prayer to release the applicant on bail during the trial in Case Crime No.266 of 2023, under Sections 147, 302 IPC, Police Station- Jethwara, District Pratapgarh.

3. Contention of learned counsel for the applicant is that there was no allegation against the applicant in the FIR though he was also nominated as accused in the FIR. Name of the applicant was mentioned in the statement of first informant recorded under Section 161 Cr.P.C. It is further submitted that it is admitted case of the first informant that he was not the eye witness of the incident and he had lodged the FIR on the basis of doubt. He next contended that the applicant is a law abiding citizen and he is languishing in jail since 22.11.2023. In case, he is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings. Learned counsel for the applicant further relied upon the bail granted to **Shaukat Ali in Criminal Misc. Bail Application No.6701 of 2024** vide order dated **24.06.2024** on the ground of parity.

4. On the other hand, learned A.G.A. for the State

opposed the prayer for bail and submitted that the applicant along with other co-accused person had killed the deceased Dilip Jaiswal by hanging and thereafter the accused persons themselves informed the first informant. Therefore, the applicant is not entitled to be released on bail.

5. Considering the aforesaid submissions and perusal of record, it appears that though the applicant was implicated as an accused but there is no allegation against him. The name of the applicant came into light in the statement of first informant recorded under Section 161 Cr.P.C. along with other co-accused persons. There is no eye witness of the aforesaid incident and entire family members of the accused persons have been nominated as accused.

6. Thus, considering the entire facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the nature of offence, evidence, complicity of accused and without expressing any opinion on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant- **Mohd. Asif** involved in the aforementioned crime be released on bail, on his 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 not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation or trial.

ii. The applicant shall cooperate in the trial sincerely without seeking any adjournment.

iii. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

8. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

9. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 25.6.2024

S.Chaurasia