Court No. - 54

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 33776 of 2020

Applicant :- Nitendra @ Sonu
Opposite Party :- State of U.P.
Counsel for Applicant :- Vikas Tiwari
Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh-I,J.

Heard Sri Vikas Tiwari, learned counsel for the applicant as well as Sri Suraj Singh learned AGA for the State and perused the material placed on record.

This bail application has been moved seeking bail in Case Crime No.69 of 2020 under sections 302, 504, 120-B I.P.C., Police Station Ata, District Jalaun, during the pendency of trial.

As per FIR, which has been lodged by Smt. Archana, who is wife of deceased, the prosecution case is that on 28.4.2020 at about 6.00 p.m., her husband Ramakant (deceased) is stated to have been shot dead by co-accused Dushyant at the exhortation of other co-accused Pritam and Awadhesh. In Post-mortem report, the deceased is found to have sustained one entry and one exit wound and the cause of death is ante-mortem fire arm injury.

Submission made by the learned counsel for the applicant is that the applicant is not named in the FIR. His name has emerged during investigation. In the statement of co-accused Dushyant, it is mentioned that the country made pistol, which was used in commission of this offence, was provided to him by the accused-applicant. There is no recovery from the accused applicant of any incriminating article or at his pointing out. The role of causing injury is said to have been assigned to co-accused Dushyant. The applicant is not involved in any other criminal case. The applicant is absolutely innocent and is languishing in jail since 01.05.2020. In case the applicant is released on bail he will not misuse the liberty of bail.

Per contra learned A.G.A. opposed the bail prayer of the applicant and has stated that one another witness Mangal Singh has also stated that the accused-applicant had provided pistol which was used by the co-accused Dushyant.

In the light of the aforesaid arguments, looking to the fact that main role of assaulting the deceased is assigned to co-accused

Dushyant, taking into consideration the nature of offence, quantum of punishment and period of detention in jail, without expressing any opinion on the merits of the case, it is found to be a fit case for bail.

Let the applicant **Nitendra @ Sonu** involved in aforesaid case 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 that :-

1. The applicant shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation or trial.

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

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

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

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

Taking into consideration that Covid-19 is continuing and due to which certified copy would not be possible to be obtained by the applicant, therefore, if a copy of this order downloaded from the official website of Allahabad High Court and self attested by the counsel for the applicant is placed before the Court, the same would be entertained.

The case of applicant is distinguishable from the case of co-accused Dushyant.

Order Date :- 26.11.2020
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