

Court No. - 43

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 26289 of 2022

Applicant :- Ravindra

Opposite Party :- State of U.P.

Counsel for Applicant :- Manoj Singh, Abhinav Prasad

Counsel for Opposite Party :- G.A., Abhinav Singh, Amit Daga

Hon'ble Ashwani Kumar Mishra, J.

The present bail application has been filed by the applicant seeking enlargement on bail in Case Crime No. 35 of 2022, under Section 306 I.P.C., Police Station Titavi, District Muzaffar Nagar.

FIR has been lodged against the applicant in Case Crime No. 35 of 2022, under Section 302 read with 34 IPC, but after investigation a charge sheet has been submitted in the matter against the applicant under Section 306 IPC.

Counsel for the applicant submits that there is no allegation of any provocation or incitement on part of the applicant and the allegation, if any, is against co-accused Savita, who has already been enlarged on bail by this court in Criminal Misc. Bail Application No. 25159 of 2022 on 29.9.2022. Submission is that the applicant has been falsely implicated and custodial interrogation is no longer required as the charge sheet has been submitted. It is also submitted that cause of death has not been ascertained and viscera report is awaited. It is further submitted that trial is likely to take sufficiently long and applicant is in jail since 14.03.2022, as such, he is entitled to be enlarged on bail at this stage. The applicant undertakes that he will not misuse the liberty of bail and will cooperate in the conduct of trial.

Learned AGA for the State and Sri Abhishek Kumar Jaiswal holding brief of Sri Amit Daga for the informant have opposed the bail application but could not seriously dispute the aforesaid fact.

Having considered the respective submissions advanced as also considering the argument that co-accused Savita has already been enlarged on bail by this Court and custodial interrogation is no longer required as the charge sheet has been submitted and cause of death has not been ascertained and viscera report is yet to be received and trial is likely to take sufficiently long, without further commenting upon the merits of the case, the applicant is entitled to be released on bail, at this stage. Above observations made in the bail order shall, however, not be construed as expression of opinion, on the merits, at the stage of trial.

Let the applicant - **Ravindra** 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, which are being imposed in the interest of justice:-

i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) 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.

(iv) 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.

(v) 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.

(vi) The applicant shall remain present, in person, before the trial court on the dates fixed for (1) opening of the case, (2) framing of charge and (3) 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.

The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

Accordingly, the present bail application is allowed.

Order Date :- 30.11.2022
Ranjeet Sahu