

**Court No. - 43**

**Case :- CRIMINAL APPEAL No. - 6214 of 2021**

**Appellant :- Sanjay**

**Respondent :- State of U.P. and Another**

**Counsel for Appellant :-** Aklank Kumar Jain, Archit  
Mandhyan, Avanish Kumar Shukla, Mithilesh Kumar Shukla

**Counsel for Respondent :- G.A.**

**Hon'ble Ashwani Kumar Mishra, J.**

**Hon'ble Dr. Gautam Chowdhary, J.**

**(Ref: Criminal Misc. Bail Application No.01 of 2021)**

1. This bail application has been filed on behalf of accused appellant Sanjay, who has been convicted in Sessions Trial Nos.30 of 2018 & 31 of 2018 (State of U.P. Vs. Sanjay), under Section 302 IPC and Section 4/25 Arms Act, arising out of Case Crime Nos.562 of 2017 & 673 of 2017, P.S. Rasulpur, District Firozabad and the maximum sentence awarded to him is life imprisonment.

2. As per the prosecution case, the informant-Amar Singh lodged a report on 01.09.2017 stating that his 30 year old son (deceased) had received a phone call from the accused appellant at about 6:25 p.m. whereafter the deceased left along with one Raju to meet the accused appellant at about 8:00 p.m. At about 9:00 p.m., informant came to know that his son has been stabbed to death by the accused appellant. The motive alleged was that the sister of the accused appellant had been enticed by one Chotu, whose brother, namely, Dayaram was also working in the same shop as that of the informant. Attempt was being made to seek the return of the sister of the accused appellant through the deceased and is how the deceased has been stabbed to death.

3. Learned counsel for the appellant submits that as per the FIR

allegation Raju is eye witness of the incident, who has not supported the prosecution case. It is further argued that accused appellant otherwise has no criminal history and is languishing in jail since 01.09.2017. It is also stated that accused appellant otherwise has no motive to commit the murder inasmuch as his grievance was against the person who had actually enticed his sister and not the accused appellant. Submission is that accused appellant has been falsely implicated merely on the strength of suspicion is convicted and sentenced in the present case and that the alleged recovery of knife from an open place is neither reliable and nor there is any independent witness of the recovery otherwise. Argument is that since hearing of the appeal may take sufficiently long, as such accused appellant be enlarged on bail.

4. Learned A.G.A. has opposed the prayer made for grant of bail, but could not dispute the assertions made on behalf of the accused appellant.

5. In the facts of the case, the question as to whether chain of circumstances have been successfully connected by the prosecution to implicate the accused appellant is an aspect which would require consideration at the time of hearing of the appeal. Considering the period of incarceration undergone by the accused appellant and also the fact that he has no criminal history; hearing of the appeal may take some more time; without further commenting upon the merits of the matter, we deem it appropriate to enlarge the accused appellant on bail.

6. Let the accused applicant/appellant- Sanjay be released on bail in the above case on furnishing personal bond and two sureties each in the like amount to the satisfaction of the Chief Judicial Magistrate concerned, subject to furnishing undertaking that he

will co-operate in the hearing of the appeal.

7. Fine imposed shall be deposited within six weeks of release of the accused appellant.

8. On acceptance of bail bonds, the lower court shall transmit photostat copies thereof to this Court for being kept on the record of this appeal.

9. Office is directed to prepare paper book and list this appeal for hearing on its due turn.

**Order Date :- 27.8.2024**

Anurag/-