

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39947 of 2019

Applicant :- Awdhesh Kumar

Opposite Party :- State Of U.P.

Counsel for Applicant :- Aklank Kumar Jain

Counsel for Opposite Party :- G.A.

Hon'ble Aniruddha Singh,J.

Heard learned counsel for the applicant, Sri K.P. Tiwari (B.H.), learned counsel appearing for the State and perused the record.

According to prosecution case, F.I.R. was lodged against unknown persons alleging that Ramratan was killed by shot fire on 24.5.2019 and mobile of the deceased was also looted with Rs.1240/-. During investigation, the name of applicant and Dinesh was surfaced and on the pointing out of applicant Rs.560/-, Aadhar Card, Visiting Card, bloodstained T Shirt of the applicant was recovered and on the pointing out of Dinesh one country made pistol with cartridges used in the crime was recovered and deceased died receiving one gun shot injury.

Learned counsel for the applicant submitted that the applicant is a B.tech student and has been falsely implicated. Recovery was planted by the Police. According to prosecution case itself katta was arranged by co-accused Dinesh. Main role of shot fire is assigned against co-accused Dinesh and recovery of katta was also made at the pointing out of Dinesh. Hence, main role to kill the deceased is specifically assigned to Dinesh and the case of the applicant is distinguishable from the case of co-accused Dinesh. The applicant is languishing in jail since 29.5.2019 (about four months) having no criminal history. There is no independent witness/eye witness account and in case he is released on bail, he will not misuse the liberty of bail and will cooperate in trial.

Learned A.G.A. opposed the prayer for bail but could not dispute the aforesaid fact as argued by learned counsel for the applicant and admitted that applicant has no criminal history.

Considering the submission of learned counsel for the parties, facts of the case, nature of allegation and period of custody, gravity of offence, without expressing any opinion on the merits of the case, the Court is of the opinion that it is a fit case for bail. Hence, the bail application is hereby allowed.

Let the applicant Awdhesh Kumar involved in Case Crime No. 51 of 2019, under Section 302, 394, 411, 34 IPC, Police

Station-Khairgarh, District- Firozabad be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions:

1. The applicant will not tamper with the evidence during the trial.
2. The applicant will not pressurize/ intimidate the prosecution witness.
3. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.
4. The applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
5. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

In case of breach of any of the above conditions, the court below shall be at liberty to cancel the bail.

Order Date :- 26.9.2019
OP