

Court No. - 51

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8875 of 2017

Applicant :- Deepak Alias Deepu

Opposite Party :- State Of U.P.

Counsel for Applicant :- Akank Kumar Jain

Counsel for Opposite Party :- G.A.

Hon'ble Vipin Sinha,J.

Heard learned counsel for the applicant and learned A.G.A. for the State.

Applicant has moved the present bail application seeking bail in Case Crime No. 27 of 2014, under Sections 302, 307, 504, 506 and 34 I.P.C., P.S. Naseerpur, District Firozabad this is the second bail application first bail application was rejected by this Court vide order dated 20.01.2016 in bail application no.4251 of 2015.

I have perused the prosecution story as set up in the F.I.R. and also the bail rejection order.

The contention as raised at the Bar by learned counsel for the applicant is that the applicant has been falsely implicated in the present case; the first informant Rajpati has been examined as P.W.1 in S.T. No.192 of 2015 the copy of the statement has been annexed as Annexure-5 to the affidavit accompanying bail application and he has been declared as hostile. Similarly, the eye-witness Sri Pal Singh has been examined as P.W.2 in S.T. No. 192 of 2015 has been declared as hostile the copy of which is at page 42 of the bail application. Similarly, another eye-witness namely Ram Kishan has been examined as P.W.3 who has also been declared hostile the copy of which is at page 49 of the bail application; the applicant is languishing in jail since 27.03.2014 and in the wake of heavy pendency of cases in the Court, there is no likelihood of any early conclusion of trial.

Learned AGA has opposed the bail application of the applicant.

In view of the aforesaid facts and circumstances, without expressing any opinion on the merits of the case, at this stage, prima facie, a case for bail has been made out. However, the said prima facie view of this Court will not in any manner adversely affect the case of the prosecution.

The prayer for bail is granted. The application is allowed.

Let the applicant Deepak Alias Deepu involved in the aforesaid case be released on bail on his executing a personal bond and furnishing 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.
- ii) The applicant shall not threaten or harass the prosecution witnesses.
- iii) The applicant shall appear on the date fixed by the trial court.
- iv) The applicant shall not commit an offence similar to the offence of

which the applicant is accused, or suspected of the commission, of which applicant is suspected.

v) The applicant shall not directly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade the applicant from disclosing such facts to the Court or to any police officer or tamper with the evidence.

In case of default of any of the conditions enumerated above, the learned counsel for the complainant is free to move an application for cancellation of bail before this Court.

However, it is directed that the aforesaid case crime number pending before the concerned court below be decided as early as possible in accordance with Section 309 Cr.P.C. and in view of principle as has been laid down in the recent judgment of Hon'ble Apex Court in the case of **Vinod Kumar v. State of Punjab** reported in **2015 (3) SCC 220**, if there is no legal impediment.

It is made clear that in case the witnesses are not appearing, the concerned court is directed to initiate necessary coercive measure for ensuring their presence.

Let a copy of the order be certified to the court concerned for necessary compliance.

Order Date :- 28.4.2017

A. Tripathi