

Court No. - 84

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50022 of 2023

Applicant :- Shoeb Akhtar

Opposite Party :- State of U.P.

Counsel for Applicant :- Saurabh Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

Heard learned counsel for the applicant and learned Additional Government Advocate representing the State.

By means of this second bail application under Section 439 of Cr.P.C., applicant- Shoeb Akhtar, who is involved in Case Crime No. 256 of 2020, under Sections 302, 201 of I.P.C., Police Station Chopan, District Sonbhadra seeks enlargement on bail during the pendency of trial.

As per the prosecution case in brief, the informant, who is a Chowkidar of village Sinduriya has lodged a first information report on 21.09.2020 at 18:34 hours against unknown person alleging inter-alia that on 21.09.2020 at about 04:00 pm, when he was roaming in the area, some people of the locality gave information to him that a dead body of a girl with chopped head was lying in the drain (nala) towards the forest in the western side of the road.

First bail application of the applicant was rejected by this Court vide order dated 24.01.2023 in Criminal Misc Bail Application No. 12648 of 2021 considering the facts that as per the postmortem report, death of the deceased was due to ante-mortem separation of neck from the body. Statement of Sharmila, sister of the deceased, who has stated inter alia that her sister used to tell her that after marriage co-accused Ajaj Ahmad and present applicant-Shoeb Akhtar were pressurizing her for conversion of the religion, whereas deceased was not inclined to accept the Muslim religion. Ajaj did not want to take Priya to his home without accepting Muslim religion and that's

why he kept her in a rented house. Since deceased was not accepting Muslim religion, therefore she has been murdered by co-accused Ajaj Ahmad and present applicant- Shoeb Akhtar. Both the accused were apprehended together and on their disclosure incriminating materials were recovered.

Main substratum of argument of learned counsel for the applicant is that co-accused Ajaj Ahmad @ Asif has been granted bail by the co-ordinate Bench of this Court vide order dated 05.10.2023 in Criminal Misc. Bail Application No. 11868 of 2023, therefore, the applicant has also been entitled to be released on bail.

On the other hand, learned Additional Government Advocate vehemently opposed the prayer for bail of the applicant by contending that co-accused Ajaj Ahmad @ Asif has obtained bail vide order dated 05.10.2023 concealing the order dated 24.01.2023 passed in Criminal Misc. Bail Application No. 12648 of 2021. It is pointed out that in the order dated 05.10.2023 wrong argument has been noted on behalf of the State that "*it is admitted fact that applicant is in jail since last eight and a half years.*" It is also submitted that the offence is heinous in nature, therefore, considering the gravity of offence, bail application of the applicant is liable to be rejected.

Having heard learned counsel for the parties and examined the matter in its entirety, I find that pursuant to order of this Court dated 15.03.2024, the trial court submitted its report dated 02.04.2024, which is on record. According to said report out of 25 prosecution witnesses, 9 prosecution witnesses have already been examined before the trial court. On perusing the order dated 05.10.2023, I also find substance in the submission of learned Additional Government Advocate that while passing the order dated 05.10.2023 of co-accused as noted above, the order dated 24.01.2023 has not been taken into consideration and wrong period of detention of the accused- Ajaj Ahmad @ Asif has been mentioned as noted above.

Considering the gravity of offence, role assigned to the accused-applicant and the stage of trial, I do not find any good ground to release the applicant on bail.

Accordingly, the bail application is ***rejected***.

The Superintendent of Police, Sonbhadra is directed to ensure the presence of all the remaining prosecution witness on the next date fixed before the trial court.

The trial court is also directed to make an endeavour to conclude the the trial, expeditiously, without granting any adjournment to either of the parties.

Copy of this order be communicated to the concerned trial court as well as to the Superintendent of Police, Sonbhadra for necessary information and compliance within 48 hours.

Order Date :- 9.7.2024

Kashifa