



2026:AHC:7681

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. BAIL APPLICATION No. - 20977 of 2023

Dayanand

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Arvind Prabodh Dubey, Sumit Kumar
Srivastava
Counsel for Opposite Party(s) : G.A., Mukesh Kumar

Court No. - 67

HON'BLE SAMEER JAIN, J.

1. Supplementary affidavit filed by the applicant is taken on record.
2. Heard Sri Sumit Kumar Srivastava, learned counsel for the applicant, Sri Mukesh Kumar, learned counsel for informant and Sri Ghanshyam Mishra, learned Brief Holder for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 76 of 2022, under Sections 363, 302, 201, 34 IPC, Police Station Mehdawal, District Sant Kabir Nagar during pendency of the trial.
4. Learned counsel for the applicant submits, this is second bail application filed on behalf of applicant but first bail application of the applicant has not been dismissed on merit rather the same was dismissed for want of prosecution.
5. Learned counsel for applicant further submits, FIR of the present case was lodged against unknown persons under Section 363 IPC and according to the FIR maternal grand son of the informant has been missed from his door on 06.04.2022 at about 7.30 PM in the evening and during investigation applicant has been made accused in the present matter. He further submits, during investigation when dead body of the abductee was recovered then case was converted under Section 302 IPC.
6. He further submits, as per prosecution on 12.04.2022 i.e. after six days from the date of FIR father of the deceased received a call with regard to

murder of the deceased committed by two other persons and as per prosecution that call was made from the phone of the applicant. He further submits, except this there is no other evidence against the applicant on record. He further submits, this evidence is shaky and no reliance can be placed on such allegation and even if the allegations are accepted then also it cannot be said that applicant was the person who kidnapped the deceased and subsequently committed the murder.

7. He further submits, applicant is not having any criminal history and in the present matter he is in jail since 15.04.2022 i.e. for last more than three and half years and till date trial could not be concluded.

8. He further submits, in the charge-sheet there are total 38 witnesses but till date only four witnesses could be examined, therefore, there is no hope of early disposal of trial.

9. He next submits, therefore, considering the above facts applicant should be enlarged on bail.

10. Per contra, learned AGA as well as learned counsel for informant opposed the prayer for bail and submitted that it is a case in which eight years old boy has been murdered and applicant involved in the present matter as mobile which was used in making call to the father of the deceased was of applicant but they could not dispute the fact that it is a case of circumstantial evidence and except above evidence there is no evidence against applicant on record and applicant is not having any criminal history and in the present matter he is in jail since 15.04.2022 i.e. for last more than three and half years.

11. I have heard learned counsel for the parties and perused the record of the case.

12. This is second bail application filed on behalf of applicant and first bail application of the applicant was dismissed for want of prosecution. However, it is a case in which 8 years old boy has been murdered but nobody was named in the FIR and during investigation applicant has been made accused in the present matter. It appears, only allegation against applicant is that on 12.04.2022 i.e. after six days father of the deceased received a call that two persons (non applicant) committed the murder of his son and this call was made from the phone of the applicant except this there

is no other evidence against the applicant on record. Admittedly, there is no eye witness account and it is a case of circumstantial evidence.

13. Further, applicant is not having any criminal history and in the present matter he is in jail since 15.04.2022 i.e. for last more than three and half years and considering the stage of trial as disclosed by learned counsel for applicant there is no hope of its early disposal.

14. Further, law is settled that unless proven guilty an accused is deemed to be innocent and bail application should not be dismissed either for punitive or preventive purpose.

15. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

16. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

17. Let the applicant - **Dayanand** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make 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 any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

18. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

19. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

January 12, 2026
AK Pandey

(Sameer Jain,J.)