

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7316 of 2023

Applicant :- Lautu Prasad

Opposite Party :- State of U.P.

Counsel for Applicant :- Jitendra Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Jitendra Singh, learned counsel for the applicant and Sri Rajiv Dhar Dwivedi, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 83 of 2021, under Sections 304, 201 IPC, Police Station Trilokpur, District Siddharth Nagar, during pendency of the trial in the court below.
3. FIR of the present case was lodged against the applicant on 19.6.2021 and according to the FIR marriage of the applicant was performed with the sister of the informant and due to the torture of the applicant, sister of the informant was residing in her paternal home for last three years but after the death of his mother applicant has taken her to his home and on 11.6.2021 applicant and his family members committed her murder.
4. It is further mentioned in the FIR that when informant arrived at the house of the applicant then found that deceased sustained injuries and after that applicant and his family members did the cremation of the deceased.
5. Learned counsel for the applicant submitted that applicant is the husband of the deceased and on the basis of false allegations he has been made accused in the present matter.
6. He further submitted that actually deceased sustained head injury accidentally by falling and died and immediately after the incident applicant informed the informant and this fact has been admitted by the informant in his statement recorded under section 161 Cr.P.C.
7. He further submitted that admittedly informant and others after

receiving information arrived at the home of the applicant and in their presence cremation of the deceased was conducted but after seven days applicant moved an application for lodging the FIR and this fact clearly suggests that after seven days a false story has been cooked up by the informant.

8. He further submitted that applicant is facing trial under section 304 IPC and he has no previous criminal history and he is in jail in the present matter since 26.6.2021 i.e. for last almost two and half years.

9. Per contra, learned AGA opposed the prayer for bail but could not dispute the arguments on facts advanced by learned counsel for the applicant.

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

11. However, applicant is husband of the deceased and without any post mortem body of the deceased has been cremated but from the statement of the informant recorded under section 161 Cr.P.C. which has been annexed alongwith the instant bail application, it appears that after the incident information has been given by the applicant to the informant and on his information informant arrived and thereafter cremation was done.

12. Further, after the death of the deceased and her cremation, FIR of the present case was lodged on 19.6.2021 i.e. after more than a week on the application dated 18.6.2021 which was also moved after seven days.

13. Further, applicant is having no previous criminal history and he is in jail in the present matter since 20.6.2021 i.e. for last almost two and half years

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

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

16. Let the applicant-**Lautu Prasad** 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.

17. 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.

18. 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.

Order Date :- 13.12.2023

Ankita