Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 17718 of 2023

Applicant :- Rajan
Opposite Party :- State of U.P.
Counsel for Applicant :- Kedar Nath Mishra
Counsel for Opposite Party :- G.A.,Surendra Mohan Mishra

Hon'ble Dr. Gautam Chowdhary,J.

1. Heard learned counsel for the applicant, learned A.G.A for the State as well as the learned counsel for the informant and perused the record.

2. It has been argued by learned counsel for the applicant that the applicant is innocent and has been falsely implicated in the present case. Learned counsel further submits that as per the G.D. entry on 17.11.2022 at about 10:27 a.m. the complainant moved an application to the concerned police station regarding death of his daughter aged about 17 years, stating therein that today at about 3:00 a.m. his daughter went into the filed for attending nature call, but when she did not return to home then he made a search of her and at about 6:00 a.m. dead body of her daughter was lying in the agriculture field of one Lal Babu Gaur, therefore, her inquest and postmortem be conducted to ascertain the truth. Learned counsel for the applicant further submits that after inquest proceedings the postmortem of the deceased was conducted on the same day of the incident, i.e., 17.11.2022 at about 4:15 p.m. wherein five injuries were found on her person and cause of death was found to be ante mortem throttling. Learned counsel for the applicant further submits that after inquest proceedings and postmortem of the deceased on 22.11.2022 the F.I.R. was lodged by the complainant stating therein that his minor daughter aged about 17 years was the student of Class-XI, the applicant and her daughter were used to talk with each other on mobile phone, on suspicion he refrained her daughter to not to talk with the applicant, he also refrained the applicant not to ruin life of her daughter but he did not assume, he arranged marriage of her daughter in nearby village for which a ceremony was also held on 16.11.2022 in a temple of Sohanpur due to which the applicant became annoyed, thereafter, in the early morning of 17.11.2022 her daughter went to attend the nature's call in the field and behind him the applicant also went towards the

field, which was seen by the complainant's brother Manoj, who thought that she is going to attend nature's call but in the morning he found dead body of her daughter lying in the field and he has been informed by someone that her daughter has been done to death by the applicant. Learned counsel for the applicant further submits that during course of investigation the Investigating Officer recorded the statements of complainant and his wife who repeated the version of the F.I.R. Learned counsel for the applicant further submits that on 08.12.2022 the Investigating Officer also recorded the statement of complainant's brother namely, Manoj Prasad after 23 days of the incident who stated that he on the date of incident at about 5:30 p.m. to 6:00 p.m. he saw the applicant going behind the deceased into the field. Learned counsel for the applicant that no one had seen the occurrence and there is no eye witness of the alleged incident, it is admitted by the complainant in the F.I.R. that there was love affair between the deceased the applicant, it appears that deceased was not ready to solemnize her marriage where her parents had arranged, on account of which family members of the deceased committed murder of the deceased to save their honour and threw away her dead body and implicated the applicant on the basis of suspicion. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. He next submits that applicant is languishing in jail since 23.11.2022, having no criminal history.

3. Per contra, learned A.G.A. as well as learned counsel for the informant have opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence.

4. After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, without expressing any opinion on merits of the case, this Court is of the view, that the applicant may be enlarged on bail.

5. Let applicant-**Rajan,** involved in Case Crime No. 381 of 2022,

under Section 302 I.P.C., Police Station Bankata, District Deoria, be enlarged on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

(i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

(ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 229-A IPC.

6. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail in accordance with law.

7. The bail application is **allowed**.

Order Date :- 30.10.2023

Mustaqeem.

Digitally signed by :-
MOHD MUSTAQEEM KHAN
High Court of Judicature at Allahabad