

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 22498 of 2023

Applicant :- Deepu

Opposite Party :- State of U.P.

Counsel for Applicant :- Lal Mani Tripathi, Rakesh Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal, J.

1. List revised.
2. Heard Sri Rakesh Kumar Mishra, learned counsel for the applicant, Sri Ajay Singh, learned A.G.A.-I for the State and perused the material on record.
3. This second bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant **Deepu**, seeking enlargement on bail during trial in connection with S.T. No. 01/2022 (State Vs. Deepu) in Case Crime No. 161 of 2021, under Sections 302, 201 IPC, registered at P.S. Alau, District Mau.
4. The first bail application of the applicant was rejected by this Court vide order dated 04.01.2022 passed in Crl. Misc. Bail Application No. 45009 of 2021 (Deepu Vs. State of U.P.).
5. Learned counsel for the applicant argued that the trial in the present matter has started in which the statement of Shanti Devi PW-1 has been recorded in which there are certain contradictions. He has placed before the Court the said statement which is annexure 6 to the affidavit. While placing the same has referred to certain contradictions, it is argued that looking to the said contradictions, the applicant is falsely implicated in the present case and deserves to be released on bail. The applicant is in jail since 27.04.2021.
6. Per contra, learned AGA opposed the prayer for bail and argued that the first bail application of the applicant was rejected on merits by a detailed order on 04.01.2022 by this Court. It is argued that in so far as the PW-1 Shanti Devi is concerned she has supported the prosecution case and in so far as the said

contradictions as pointed out are concerned, the same do not in any manner go to show that there is a false implication. It is argued that there is no fresh and new ground argued by learned counsel for the applicant. It is argued that as such the present bail application of the applicant be dismissed.

7. After having heard learned counsel for the parties and perusing the records, it is evident that the present bail application is second bail application. The first bail application of the applicant was rejected on merits by a detailed order by this Court. The same reads as under:-

"Heard Sri S.B. Singh, Advocate holding brief of Sri Ram Badan Maurya, learned counsel for the applicant, Sri Pankaj Mishra, learned counsel for the State and perused the material placed on record.

This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Deepu, seeking enlargement on bail during trial in connection with Case Crime No. 161 of 2021, under Sections 302, 201 I.P.C., registered at P.S. Alau, District Mainpuri.

The prosecution case as per the First Information Report lodged by Smt. Shanti Devi on 23.7.2021 at 19:01 hours is that her grand daughter Priyanka solemnized love marriage with Deepu, the present applicant, around three years back. On 22.7.2021 at about unknown time, she received an information through relatives that her grand daughter has been murdered by the applicant by strangulating her and in the course of destruction and concealing of the dead body, he tied the same on the motorcycle and was taking her, but the dead body somehow fell down, after which he left it by the side of the road and ran away. She was shown the photograph of the dead body, after which she identified it to be of her grand daughter Priyanka. She went to the matrimonial house of Priyanka and came to know of the incident. Deepu, the present applicant has murdered her and was taking her for throwing her in the river.

Learned counsel for the applicant argued that although the applicant is the husband of the deceased, but he has been falsely implicated in the present case. It is argued that the first informant Smt. Shanti Devi was interrogated under Section 161 Cr.P.C., in which she has implicated the applicant only because of the reason that the deceased had eloped with the applicant and had married him against the wishes of family. It is argued that there is no credible evidence against the applicant in the present matter. The applicant is having no criminal history, as stated in para-15 of the affidavit. There is no recovery of any incriminating material from the possession of the applicant, paragraph-17 of the affidavit has been placed for the same. It is argued that the applicant is in jail since 27.4.2021.

Per contra, learned counsel for the State oposed the prayer for bail and argued that the applicant is the husband of the deceased. The marriage of the applicant was solemnized three years prior to the incident. The deceased died in her matrimonial house. The death is unnatural. There was an attempt to dispose of the body, but same was a failed attempt. The bail application be, thus, rejected.

After having heard the learned counsel for the parties and perusing the record, it is evident that the applicant is the husband of the deceased. The First Information Report has been lodged on 23.7.2021. The post-mortem examination of the deceased was conducted on 23.7.2021 at 4:20 p.m. The doctor has opined the cause of death as asphyxia as a result of anti-mortem strangulation. The time since death has been opined to be more than two days. There is no explanation coming forth from the side of the applicant as to how and when his wife has died. The applicant was living with the deceased in the same house, even his presence at the time of incident with the deceased in the same house is the prosecution case.

The bail application is, accordingly, rejected."

8. The contradictions as being shown in the statement of Shanti Devi PW-1, in her statement before the trial court are concerned, the same does not in any manner knock out the prosecution case in full. The said witness has supported the prosecution case. The trial is under progress in which as per learned counsel for the State three witnesses have been examined. Looking to the facts of the case, the argument as advanced and the stage of trial, I do not find it a fit case for bail.

9. Considering the totality of the case in particular, nature of evidence available on record, I am not inclined to release the applicant on bail.

10. The bail application is, accordingly, ***rejected***.

Order Date :- 7.12.2023

M. ARIF

(Samit Gopal, J.)