

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 26403 of 2023

Applicant :- Rajeev @ Pintu

Opposite Party :- State of U.P.

Counsel for Applicant :- Anjani Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.

2. Heard Sri Anjani Kumar Dubey, learned counsel for the applicant and Sri Ram Narayan Srivastava, learned AGA for the State.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 233 of 2022, under Sections 498A, 201, 302 IPC, Police Station Talgram, District Kannauj during pendency of the trial.

4. FIR of the present case was lodged against Rajpal, Mohar Shri and Benche Lal i.e. brother and parents of the applicant and according to the FIR marriage of the daughter of the informant was performed with co-accused Rajpal about 15 years before and after marriage her husband and in-laws tortured her and on 06.09.2022 informant received a missing information of his daughter and on 07.09.2022 her dead body was found inside the pond. It is further mentioned in the FIR that informant was having suspicion that nominated accused persons after committing the murder of the deceased concealed the dead body inside the pond.

5. Learned counsel for the applicant submitted that applicant is Devar of the deceased and he was not named in the FIR but during investigation on the basis of statement of village Pradhan, he has been made accused in the present matter. He further submits that from the statement of the village Pradhan, it appears that village Pradhan received an information from a third person that applicant wanted to confess his guilt and merely on this evidence he has been made accused in the present matter.

6. He further submits that applicant never confessed his guilt before anyone including village Pradhan. He further submit that as per prosecution after his arrest applicant confessed his guilt and on his pointing out Bangles of the deceased were recovered from the Varanda of the house and except this, there is no other evidence against the applicant.

7. He further submits that on the basis of these evidence, it cannot be said that applicant has committed the murder of his Bhabhi. He further submits that actually deceased had gone to ease herself but she did not return and in this regard on 05.09.2022 at about 20.00 hours a missing report was lodged by the father of the deceased but subsequently after recovery of the dead body, FIR of the present case was lodged on 08.09.2022. He further submits that there is no cogent evidence against the applicant on record and applicant is not having any criminal history and in the present matter he is in jail since 12.09.2022 i.e. for more than a year.

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

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

10. It is a case of circumstantial evidence and applicant was not named in the FIR but subsequently he has been made accused in the present matter and he is Devar of the deceased and only evidence against him is the statement of village Pradhan and from the statement of village Pradhan it appears that applicant wanted to confess his guilt and thereafter when applicant was arrested, he confessed his guilt and on his pointing out Bangles of the deceased was recovered and except this there is no other evidence against the applicant on record and in the present matter applicant is in jail since 12.09.2022 i.e. for more than a year.

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

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

13. Let the applicant - **Rajeev @ Pintu** 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.

14. 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.

15. 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 :- 7.11.2023

AK Pandey