

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42371 of 2020

Applicant :- Vashishtha Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Mukesh Kumar, Jitendra Kumar Upadhyay, Mohd Imran Khan, P.K. Singh, Sandeep Kumar, Sunil Kumar Pandey

Counsel for Opposite Party :- G.A., Brij Bhushan Pandey

Hon'ble Samit Gopal, J.

1. List revised.
2. Heard Shri Sandeep Kumar Pandey holding brief of Shri Sunil Kumar Pandey, learned counsel for the applicant and Shri Brij Bhushan Pandey, learned counsel for the first informant and Shri Bade Lal Bind, learned counsel for the State and perused the material on record.
3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- **Vashishtha Yadav** seeking enlargement on bail during trial in connection with Case Crime No. 183 of 2020, under Sections 304 and 498-A I.P.C. Police Station- Nandganj, District- Ghazipur during the pendency in the trial court.
4. The FIR of the present case was lodged on 04.06.2020 by Sunil Yadav against the applicant, Ram Ashish Yadav and Radhika Yadav alleging that his sister Suneeta Yadav was married to the applicant on 10.05.2006. The accused persons used to torture her for less dowry, she informed the family about it. She had four daughters, since there was no male child all the accused persons used to taunt her often and used to torture her physically and mentally. On 04.04.2020 they murdered his sister.
5. Learned counsel for the applicant argued that applicant has been falsely implicated in the present case and he is the husband of the deceased. It is further argued that deceased fell from the stairs while going to the roof of the house after which she received injuries and died. While placing the supplementary affidavit dated 24.10.2023, it is argued that the trial in the matter has started in which Sunil Yadav the first informant was examined as PW-1, the other brother of the deceased Mangal

Singh Yadav was examined as PW-2, and Avni @ Kushi the daughter of the deceased aged about 6 years was examined as PW-3, and while placing the said statements which are Annexure No.SA-2 to the said supplementary affidavit, it is argued that there are contradictions insofar as prosecution case is concerned. It is argued that the daughter of the deceased although was stated to be an eye witness to the incident but has not stated anything about the implication of the applicant in the matter before the trial court. It is further argued that the applicant has no criminal history as stated in para No.29 and is languishing in jail since 06.06.2020. It is argued that as such the applicants be released on bail.

6. Per contra, learned A.G.A and learned counsel for the first informant vehemently opposed the prayer for grant of bail.

7. It is argued that the deceased was found to have been received one contused swelling and three abrasions on her body. Beneath the contused swelling on the occipital region, underlying bone was found fractured. The cause of death was opined as COMA as a result of ante mortem head injury. It is argued that, since, the trial is under progress and three witnesses have been examined who have supported the prosecution case the release of the applicant would have adverse effect in the trial.

8. After hearing the counsel for the parties and perusing the record, it is evident that the applicant is the husband of the deceased. The deceased was found to have received injury on her head with fracture in it which was the cause of her death. The trial is under progress in which three witnesses have been examined who have supported the prosecution case. Insofar as contradictions in the statements are concerned the same is for the trial court to appreciate at the appropriate stage.

9. Looking to the facts and circumstances of the case, I do not find it a fit case for bail, hence, the bail application is **rejected**.

Order Date :- 2.11.2023

A Gautam

(Samit Gopal,J.)