

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50118 of 2023

Applicant :- Arman

Opposite Party :- State of U.P.

Counsel for Applicant :- Suresh Dhar Dwivedi

Counsel for Opposite Party :- G.A.,Sadrul Islam Jafri

Hon'ble Sameer Jain,J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri S. D. Dwivedi, learned counsel for the applicant, Sri N.I. Jafri, learned Senior Advocate, assisted by Sri Ali Jamal Khan, Advocate, holding brief of Sri S.I. Jafri, learned counsel appearing on behalf of elder brother of the deceased and Dr. S.B. Maurya, learned AGA-I for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 309 of 2022, under Sections 366, 506, 302, 120-B, 201, 34 IPC, Police Station- Ramala, District- Baghpat, during pendency of the trial in the court below.
4. FIR of the present case was lodged by Muraslin on 22.10.2022 under Sections 366, 506 IPC against co-accused Arif and his brother-in-law and according to the FIR even after marriage nominated accused Arif threatened the sister of the informant for marriage.
5. Learned counsel for the applicant submitted that it is a case in which informant of the case i.e. brother of the deceased subsequently during investigation has been made accused alongwith applicant and others.
6. He further submitted that initially FIR of the present case was lodged under Sections 366 and 506 IPC but as per the prosecution when on 08.11.2022 applicant alongwith his brother Muraslin (who lodged the FIR) was arrested then case was converted under Section 302 IPC and applicant and Muraslin, the informant of the present case, have been made accused in the present matter alongwith four others for murder of their sister.

7. He further submitted that during investigation, Investigating Officer recorded the statements of two alleged guards and however, they stated that they witnessed the applicant and his brother Muraslin while they were strangulating the deceased alongwith others but their statements appear to be unreliable as both the guards did not even try to save the life of the deceased. He further submitted that even statements of both the guards were recorded after four days i.e. on 12.11.2023.

8. He further submitted that except the statement of these two guards, there is no cogent evidence against the applicant on record and only being brother of the informant i.e. Muraslin, he has been made accused in the present matter.

9. He further submitted that applicant is not having any criminal history and he is in jail since 18.11.2022 i.e. for last more than a year.

10. Per contra, learned AGA as well as learned Senior Advocate appearing on behalf of the elder brother of the deceased opposed the prayer for bail and submitted that it is a case of honour killing and informant, who is the brother of the deceased alongwith applicant i.e. his brother, committed the murder of his sister as even after marriage, his sister i.e. deceased developed illicit relationship with one Arif.

11. They further submitted that both the guards categorically stated that they were eye-witnesses and they witnessed the applicant and his brother i.e. informant while they were strangulating the deceased and their statements were recorded within four days from the date of incident and there is no reason to disbelieve their statements at this stage.

12. They further submitted that even on the pointing out of the informant, Muraslin, dead body of the deceased was recovered. They further submitted that even the paramour of the deceased i.e. co-accused Arif has been eliminated by the applicant and his brother i.e. informant of the case and in this regard a separate FIR has been lodged and, therefore, applicant should not be released on bail.

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

14. It is a case in which informant of the case during investigation, subsequently was made accused alongwith his brother i.e.

applicant and others and as per the prosecution, after marriage, deceased i.e. sister of the applicant developed illicit relationship with one Arif and due to this reason applicant alongwith informant of the case i.e. his another brother committed her murder and therefore it appears to be a case of honour killing.

15. Further, during investigation, Investigating Officer recorded the statements of two guards, who claimed themselves to be eye-witnesses and they stated that they witnessed the applicant and his brother Mursalin i.e. informant of the case while they were strangulating the deceased, however, it appears that due to fear at that time they did not resist but their statements were recorded by the Investigating Officer within four days from the date of murder of the deceased.

16. Further, from the perusal of the record, it also reflects that when the informant i.e. brother of the applicant was arrested then he confessed his guilt and on his pointing out dead body of the deceased was recovered and it also reflects that co-accused Arif, the paramour of the deceased, was also murdered and this fact corroborates the case of prosecution that it is a case of honour killing and applicant being brother of the deceased was having motive to commit the murder of his own sister as she developed illicit relationship with one Arif and both were murdered.

17. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be released on bail.

18. Accordingly, the instant bail application is ***rejected***.

19. 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 :- 23.11.2023

KK Patel