

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 32206 of 2023

Applicant :- Ram Milan

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Pradeep Kumar Tiwari, Manish Tiwari

Counsel for Opposite Party :- G.A., Beena Mishra

Hon'ble Samit Gopal, J.

1. List revised.
2. Notice was issued to the first informant vide order dated 31.07.2023. As per the office report dated 05.09.2023, a report dated 26.08.2023 of C.J.M. concerned has been received stating therein that notice has been served on the first informant.
3. The perusal of the said report shows that notice has been served on the first informant.
4. No one appears on behalf of the first informant even when the matter has been taken up in the revised list.
5. Heard Sri Pradeep Kumar Tiwari, learned counsel for the applicant, Ms. Beena Mishra, learned panel lawyer of the High Court Legal Services Committee and Sri Virendra Pratap Singh, learned counsel for the State and perused the material on record.
6. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant **Ram Milan**, seeking enlargement on bail during trial in connection with Case Crime No. 18 of 2023, under Sections 363, 376-D, 306, 506 IPC and 5/6 POCSO Act, registered at P.S. Baharia District Prayagraj.
7. The FIR of the matter was lodged on 26.01.2023 by Preeti Patel against the applicant, Deenanath, Raman and two other unknown persons alleging therein that her younger sister aged about 14 years went out of the house for urination at about 12:00 am wherein the accused persons gagged her mouth and took her away. After about two hours she came back in a bleeding condition on which on asking she disclosed that the said accused persons being total five persons committed rape upon her. She then came out on

the road and saw the accused persons standing there who threatened her on coming there otherwise she will meet the same fate. She then went inside the house. After the said incident which has taken place on 21.01.2023 her sister has been seen on 22.01.2023 at about 10:00 am and when she entered the house she closed the door from inside and did not open till 03:00 pm when she peeked found her to be hanging. She was found to be dead. The accused persons broke the door. The police came and locked her inside and got the inquest done from the accused persons. The body was then sent for postmortem after which the same was cremated by the accused persons and their family members. At the time of cremation there was no one present of the family of the first informant which was done forcibly without family members of the deceased.

8. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the applicant is not involved in the matter. It is argued that in the postmortem examination report of the deceased does not support the prosecution case. The applicant had neither taken the deceased nor raped her at the point of time. It is argued that co-accused Jai Prakash Patel and Vikas Kumar Patel have been granted bail by co-ordinate Benches of this Court vide orders dated 04.07.2023 and 07.08.2023 passed in CrI. Misc. Bail Application Nos. 25122 of 2023 (Jai Prakash Patel Vs. State of U.P. and 3 others) and 34501 of 2023 (Vikas Kumar Patel Vs. State of U.P. and 3 others), copy of the orders have been produced before the Court which are taken on record. It is further argued that the deceased was inside the room and the first informant did not even care to see her. It is argued that as a matter of fact the applicant and the prosecutrix are residing in the same village and there is a village party bandi and due to the said reason when the deceased committed suicide, the informant and other family members for saving their skin and reputation in the village, they have cooked up a false story and lodged the present FIR. He further argued that the applicant has no criminal history as stated in para 21 of the affidavit and is in jail since 29.01.2023.

9. Per contra, learned panel lawyer of the High Court Legal Services Committee and learned counsel for the State opposed the prayer for bail and argued that the present case is a case of gang rape. The applicant along with two other accused persons are named in the FIR along with two unknown persons. It is argued that in so far as two co-accused persons who were granted bail are concerned, they are not named in the said FIR. It is argued that the

first informant has stated of the deceased disclosing identity of the accused persons to her who had committed rape upon her. It is argued that there is no reason for false implication of the applicant and as such the prayer for bail of the applicant be rejected.

10. After having heard learned counsels for the parties and perusing the records, it is evident that the applicant is named in the FIR. The deceased told the first informant about the applicant and other accused persons committing gang rape upon her. She then committed suicide. Her dead body was disposed off by the accused persons and his family members. I do not find it a fit case for bail.

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

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

Order Date :- 6.11.2023

M. ARIF

(Samit Gopal, J.)