

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38350 of 2023

Applicant :- Ram Kumar Paswan@ Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Shri Prakash Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

1. Heard Mr. Shri Prakash Dwivedi, the learned counsel for applicant and the learned A.G.A. for State

2. Perused the record.

3. Instant bail application has been filed by applicant-Ram Kumar Paswan@ Kumar seeking his enlargement on bail in Case Crime No. 17 of 2023 under Section 302 I.P.C., Police Station-Rampur Barkoniya, District-Sonbhadra, during the pendency of trial.

4. Record shows that in respect of an incident, which is alleged to have occurred on 31.03.2023 a delayed F.I.R. dated 02.04.2023, was lodged by first informant-Om Prakash Paswan (son of the deceased) and was registered as Case Crime No.246 of 2022 under Section 302 I.P.C., Police Station-Rampur Barkoniya, District-Sonbhadra. In the aforesaid F. I.R., applicant-Ram Kumar Paswan@ Kumar has been nominated as solitary named accused.

5. The gravamen of the allegations made in the F.I.R. is to the effect that on 31.03.2023, father of first informant namely Vishwnath was put to death by some unknown person.

6. It is apposite to mention here that after the aforesaid occurrence, information regarding the same was given at the concerned police

station. On the basis of above information, inquest and post-mortem proceedings were conducted.

7. The inquest (panchayatnama) of the body of deceased was conducted on 01.04.2023. In the opinion of the witnesses of inquest (panch witnesses), the nature of death of deceased was categorised as homicidal and cause of death of deceased was said to be injury sustained by the deceased. Subsequent to above, the post-mortem of the body of the deceased was conducted. In the opinion of the Autopsy Surgeon, who conducted autopsy of the body of deceased, the cause of death of deceased was shock and hemorrhage as a result of ante-mortem injuries. The Autopsy surgeon found following ante-mortem injuries on the body of deceased:

i. I/W (incised wound), chopped 13 cm. x 4 cm. x 5 cm. on the front of neck below chin anxiety, trachea cut and exposed open, margin sharp.

ii. I/W 4 cm. x 1cm x 1cm. just above Rte. eye brow.

iii. I/W 2cm x 2 cm on Rt. corner of mouth involving upper and lower lip cut through and through.

iv. I/W 3 cm x 2cm x skin deep on the out aspect of neck 4cm below injury no.1.

v. Cartesian area of 26 cm. x 12 cm. on the part of lower neck just below injury no.1.

vi. Cartesian 11cm. x 7 cm. on Rt. shoulder top.

8. During course of investigation, Investigating Officer examined first informant and other witnesses namely Babri Devi, Basantiya Devi, Kamlesh @ Vittu, Atal Kumar and Shyana Devi under Section 161 Cr.P.C. The complicity of present applicant surfaced in the statement of three witnesses namely Babri Devi, Basantiya

Devi, Kamlesh @ Vittu. Accordingly, applicant was arrested on 03.04.2023. On his pointing, the weapon of assault i.e. Danda was recovered, which was having blood stain. According the weapon of assault was sent to Forensic Science Laboratory for chemical examination.

9. The learned A.G.A. submits that as per F.S.L. report dated 04.11.2023, human blood was found on the same.

10. On the basis of above and other material collected by Investigating Officer during course of investigation, he came to the conclusion that complicity of applicant is fully established in the crime in question. He therefore opined to submit a charge-sheet. Accordingly, Investigating Officer submitted the charge sheet dated 07.05.2023, whereby applicant has been charge sheeted under Section 302 I.P.C.

11. Learned counsel for applicant contends that though the applicant is a named as well as charge-sheeted accused yet he is liable to be enlarged on bail. Applicant is innocent and has been falsely implicated in the crime in question. The occurrence giving rise to present criminal proceedings is alleged to have occurred on 31.03.2023 whereas the statement of witnesses namely Babri Devi, Basantiya Devi, Kamlesh @ Vittu was recorded with delay. Referring to the judgement of Apex Court in the **Shahid Khan Vs. State of Rajasthan, (2016) 4 SCC 96**, the learned counsel for applicant submits that since the statements of three witnesses was recorded with much delay therefore they become suspicious and hence unworthy of reliance.

12. Per contra, the learned A.G.A. has opposed the prayer for bail. He submits that since the applicant is a named as well as charge-sheet accused, therefore he does not deserve any indulgence by

this Court. Complicity of applicant in the crime in question is fully established as per the statement of three witnesses namely Babri Devi, Basantiya Devi, Kamlesh @ Vittu examined by the Investigating Officer under Section 161 Cr.P.C.. It is further contended that on the pointing of applicant, the weapon of assault was recovered and was having blood stains As per FSL report, human blood was found on the recovered weapon of assault. On the basis of above and the incriminating circumstance that has emerged against applicant, during course of investigation, applicant does not deserve any sympathy of this Court.

13. When confronted with above, the learned learned counsel for applicant could not overcome the same.

14. Having heard the learned counsel for applicant, the learned A.G.A. for State, upon consideration of material on record, evidence, gravity and nature of offence, accusations made as well as complicity of applicant coupled with the fact that the learned counsel for applicant could not dislodge the objection raised by the learned A.G.A. in opposition to the present application for bail, therefore, irrespective of the varied submissions urged by the learned counsel for applicants in support of the present application for bail, this Court does not find any good or sufficient ground to enlarge the applicant on bail.

15. As a result, present application for bail fails and is liable to be rejected.

16. It is, accordingly, rejected.

Order Date :- 5.12.2023/YK