

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40053 of 2023

Applicant :- Kamlesh Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Shyamu Shukla

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 Shyamu Shukla, learned counsel for the applicant and Sri Rajeev Dhar Dwivedi, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 69 of 2023 (S.T. No. 1324 of 2023), under Sections 302, 201 IPC, Police Station Chiluatal, District Gorakhpur during pendency of the trial.
4. FIR of the present case was lodged on 03.02.2023 against applicant and one another and according to the FIR marriage of the applicant was performed with the daughter of the informant about 16 years before and applicant developed illicit relationship with some other lady and due to this reason on 17.01.2023 at about 8 AM in the morning applicant has taken the deceased from his house and after committing her murder threw her dead body.
5. Learned counsel for the applicant submitted that applicant is husband of the deceased and on the basis of false allegation, applicant has been made accused in the present matter. He further submits that actually deceased i.e. wife of the applicant had gone to her matrimonial home on 17.01.2023 but did not return and after that applicant himself lodged a missing report on 20.01.2023 and dead body of deceased was recovered on 26.01.2023 and thereafter on 03.02.2023 FIR of the present case was lodged.
6. He further submits that there is no evidence on record that applicant after committing the murder of the deceased threw her dead body and only being husband of the deceased, he has been

made accused in the present matter.

7. He further submits that applicant is not having any illicit relationship with any lady and with the wedlock of applicant and deceased, three children borne and as applicant is in jail, therefore, his children are living as orphan. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 10.02.2023 i.e. for more than nine months.

8. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is husband of the deceased and even as per applicant deceased left her matrimonial home on 17.01.2023 but neither applicant immediately informed the police nor he ever informed the informant and informant only came to know about the murder of his daughter after the recovery of her dead body, therefore, applicant should not be released on bail.

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

10. From the record, it reflects that applicant is husband of the deceased and even as per applicant himself deceased left her matrimonial home on 17.01.2023 and did not return but in spite that applicant did not inform this fact to the informant. Further, immediately he did not inform the police and he only lodged a missing report of his wife i.e. deceased on 20.01.2023 i.e. after three days.

11. Further, from the record it reflects that dead body of the deceased was recovered on 26.01.2023 and post mortem report of the deceased shows that deceased died due to head injury, therefore, prima facie it appears to be a case of homicidal death. The defence taken by the applicant does not appeal to this Court and appears to be vague and general in nature and merely on the basis of such defence, it cannot be said that applicant explained the alleged homicidal death of his wife.

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

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

14. 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 :- 30.11.2023

AK Pandey