

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44608 of 2023

Applicant :- Daksh @ Daksh Chaudhary

Opposite Party :- State of U.P.

Counsel for Applicant :- Kuldeep Kumar

Counsel for Opposite Party :- G.A., Subhash Gosain

Hon'ble Samit Gopal,J.

1. List revised.

2. Heard Sri Kuldeep Kumar, learned counsel for the applicant, Sri Subhash Gosain, learned counsel for the first informant and Sri Ram Prakash Shukla, 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 **Daksh @ Daksh Chaudhary**, seeking enlargement on bail during trial in connection with Case Crime No. 589 of 2023, under Sections 364, 302, 201 IPC, registered at P.S. Kotwali Nagar, District Bulandshahr.

4. The FIR of the matter was lodged under Section 364 IPC on 12.07.2023 by Smt. Preeti Singhal against the applicant alleging therein that on 10.07.2023 at about 09:00 pm her nephew Keshav Goel aged about 18 years went from the house somewhere. She got a missing report lodged about it. During search of her nephew she came to know that Daksh the present applicant on greed of money has kidnapped him.

5. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the applicant and the deceased were classmates and friends. There is no eye witness to the murder. It is argued that the applicant neither abducted the deceased nor committed his murder. He did not throw his body in the canal. It is argued that the applicant has no motive to commit the aforesaid offence and has no enmity with the deceased. It is argued that the implication of the applicant in the present case is only on the basis of suspicion. While placing paragraph 24 of the affidavit it is argued that the parents of the deceased were dead and the deceased was having three houses along with properties and therefore one Sanjay Singhal who is fufa of the deceased wanted to grab the properties and therefore he committed the murder of the deceased and the applicant being the

friend of the deceased, has been implicated in the present case. He further argued that the applicant has no criminal history as stated in para 18 of the affidavit and is in jail since 15.07.2023.

6. Per contra, learned counsel for the first informant and learned counsel for the State vehemently opposed the prayer for bail. It is argued that there is an incriminating CCTV footage in the present matter which has been seen by the Investigating Officer and noted in the case diary in which the applicant and the deceased are seen going on a two wheeler on the petroleum pump after getting fuel in the vehicle after which they both are seen proceeding forward. Further, the CCTV footage they are seen together, later on the applicant is seen returning alone on the said vehicle. It is argued that there is no disclosure by the applicant as to where he left the deceased. It is argued that subsequently the dead body of the deceased was recovered in which although the doctor did not find any external injury on it but on exploration of neck trachea was found to be congested and hyoid bone was found to be fractured. The doctor opined the cause of death to be asphyxia but could not ascertain as to how the same was received. 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.

7. After having heard learned counsels for the parties and perusing the records, it is evident that the applicant is named in the FIR, the CCTV footage collected during investigation is an incriminating evidence against the applicant which shows that the applicant and the deceased were travelling on a two wheeler, subsequently after some time the applicant was seen returning all alone. Later on, the body of the deceased was recovered in the canal. The Apex Court in the case of **Surajdeo Mahto Vs. State of Bihar : (2022) 11 SCC 800** has stated that in such circumstance the accused has to disclose as to when and where he parted with the deceased. In the present case, situation is the same. Looking to the nature of the incident, CCTV footage and the case of **Surajdeo Mahto (supra)**, I do not find it a fit case for bail.

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

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

Order Date :- 3.11.2023/M. ARIF

(Samit Gopal, J.)