

Neutral Citation No. - 2023:AHC:208139

Reserved On:- 27.10.2023

Delivered On:- 31.10.2023

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42948 of 2023

Applicant :- Anushka Tiwari

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohd Raghbir Ali, Nikhil Pandey, Sr. Advocate

Counsel for Opposite Party :- G.A., Praveen Kumar Singh, Syed Imran Ibrahim

Hon'ble Siddharth, J.

1. Heard Sri Shagbir Ahmad, learned Senior Counsel assisted by Sri Mohd. Raghbir and Sri Nikhil Pandey, learned counsels for the applicant; Sri Praveen Kumar Singh, learned counsel for the informant and Sri C.L. Singh, learned A.G.A- 1 for the State.
2. The instant bail application has been filed on behalf of the applicant, Anushka Tiwari, with a prayer to release her on bail in Case Crime No. 225 of 2023, under Sections- 302, 364, 504, 506, 201, 34 IPC, Police Station- Bhelupur, District- Varanasi.
3. There is allegation in the FIR that the son of the informant, Devansh Yadav, aged about 22 years had left his house at Farrukhabad for going to Varanasi on 25.05.2023 and he stayed at a hotel in Varanasi. On 26.05.2023 at about 6:51 p.m his son talked to his friend, Shrivats on Whatsapp but from next day his phone stopped responding. Thereafter his friend, Shrivats, called at reception of the hotel and he came to know that Devansh, is not in the room. Then, Shrivats called applicant, Anushka Tiwari, who informed him that she had quarrel with Devansh and she does

not know about him. On 28.05.2023 at 3:00 p.m, Shrivats, informed his wife about the entire incident and on 29.05.2023, the informant lodged a missing report. The informant and his family was not aware about the applicant, Anushka Tiwari. He went to her house at Kanpur. Her father, uncles, co-accused, Saurabh Tiwari and Saujanya Tiwari, did not permitted him to meet her and misbehaved and threatened him. Thereafter, the FIR was lodged with great difficulty on 08.06.2023.

4. Learned counsel for the applicant submits that the dead body of the deceased was recovered as unclaimed body on 27.05.2023 and post-mortem was done. From the photograph of the unknown dead body and clothes, the dead body of deceased was identified by his maternal uncle, Mukesh Kumar. In the statement of the applicant, Anushka Tiwari, the name of co-accused, Rahul Seth, has surfaced as the person who committed the murder of the deceased, Devansh.

5. Counsel for the applicant also submits that it is a case of circumstantial evidence. Nothing incriminating was recovered from the applicant. She has no criminal history to her credit. The C.C.T.V footage collected by the investigating officer do not prove the commission of alleged offence by the applicant. The statements of the applicant, co-accused, Rahul Seth and Shadab, have been recorded in police custody and cannot be read against them at this stage.

6. Counsel for the informant has vehemently opposed the bail application. He has submitted there are call details collected by the Investigating Officer regarding the deceased, Devansh Yadav, co-accused, Rahul Seth and the applicant, which prove that they were together and in touch with each other prior to murder of the deceased. The screw driver allegedly used in the crime was recovered from the pointing out of the applicant and co-accused, Shadab. C.C.T.V footage collected from as

many as 12 cameras show the place from which the deceased was taken in the car by the applicant and co-accused. The guard, Manoj Kumar Singh, stated in his statement that the co-accused, Rahul Seth, was good friend of co-accused, Shadab, and he was frequently seen with a 22 years old girl. Charge sheet has already been filed against the applicant.

7. Learned A.G.A has also opposed the prayer for bail.

8. After hearing the rival contentions, this Court finds that from the statement of applicant, Anushka Tiwari, it appears that she earlier had affair with the deceased, Devansh Yadav, but later befriended the co-accused, Rahul Seth. The deceased was not able to forget her and therefore in order to get rid of him she hatched a conspiracy with the co-accused and called him to Varanasi from Fatehgarh to meet her and thereafter the murder of the deceased was caused by the applicant and co-accused. Their call details and the C.C.T.V footages found with the deceased are reliable evidences collected by the Investigating Officer which cannot be ignored. Therefore, it is not a fit case for grant of bail to the applicant at this stage.

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

10. The trial court is directed to conclude the trial against the applicant as expeditiously as possible, preferable within a period of one year from the date of production of certified copy of this order.

Order Date :- 31.10.2023

Rohit