

Neutral Citation No. - 2023:AHC:226953

RESERVED ON 23.11.2023

DELIVERED ON 30.11.2023

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45001 of 2023

Applicant :- Rishi Kumar Verma

Opposite Party :- State of U.P.

Counsel for Applicant :- Abhishek Trivedi, Mohd. Aqueel Khan

Counsel for Opposite Party :- G.A., Shishir Tandon

Hon'ble Siddharth, J.

1. Heard Shri N.I. Jafari, learned Senior Advocate, assisted by Shri Mohd. Aqueel Khan, counsel for the applicant ; Shri Shishir Tandon, learned counsel for the informant as well as the learned AGA for the State and perused the material placed on record.

2. The instant bail application has been filed on behalf of the applicant, Rishi Kumar Verma, with a prayer to release him on bail in **Case Crime No. 221 of 2023, under Section 306 IPC, Police Station Bithoor, District-Kanpur Nagar**, during pendency of trial.

3. There is allegation in the First Information Report that daughter of the informant was married on 25.6.2014 with applicant. After marriage informant discovered that applicant is drunkard and also vagabond. He used to beat the daughter of the informant and she had complained about his conduct number of times. Her daughter informed that for the last five months applicant has having affair with a girl, Diksha Sharma and she used to come to her house in her absence many times and applicant refused to partways with aforesaid girl and

started harassing the daughter of the informant to take divorce from him. Otherwise she would be killed. Yesterday, on 19.6.2023 he again committed such deeds against her daughter and hence she came to her parental home. The Informant assured that she will talk to the applicant and her daughter went back. At 12 P.M. applicant called her on phone in great anger and asked her to talk to her daughter otherwise disastrous consequences will ensue. She went to the house of applicant and knocked but no one responded. Informant made phone call to the applicant, who came after long time and opened his flat. The informant found her daughter hanging from fan by a *Gamcha*. The applicant left the scene of the incident smiling.

4. Learned senior counsel for the applicant has submitted that the applicant had no illicit relationship with co-accused, Diksha Sharma but only had friendship with her. He purchased a flat in the name of his deceased wife, who has left behind 3/1/2 years old daughter. No injury was found on her body. Reliance has been placed on the judgements of the Apex court in case of **Ghusabhai Raisangbhal Chorasiya and others Vs. State of Gujarat (SC) 2015(11)SCC,753, Pinakin Mahipatray Rawal Vs. State of Gujarat(SC) 2014 AIR(Supreme Court)331**, in support of his contention that extra marital affair with other women can be a ground to get divorce. It could not be considered as reason for abetment of suicide of deceased.

5. Learned counsel for the informant has filed counter affidavit and has vehemently opposed the bail application of the applicant and submitted that the applicant was pressuring the deceased to take divorce from him and he did not wanted to live with her and had also threatened to kill her. He has submitted that conduct of applicant was recorded in the C.C.T.V. footage, which has been brought on record by way of C.D. as annexure-1 to the counter affidavit. Regarding the flat purchased in the name of the deceased, it has been submitted that regular installments of loan were paid by deceased, as clear from the bank statement of her account. Because of conduct of the applicant deceased was mentally disturbed under treatment by doctor. On the date of the incident the applicant invited co-accused, Diksha Sharma, to come and live in the same house with deceased. On which deceased stated that she cannot live with Diksha Sharma in the same house and she is going to commit suicide. Deceased committed suicide thereafter. Applicant left the house after locking the same from outside. Deceased was drove to extreme point of desperation and breakdown by the applicant by his conduct. She was left with no option but to commit suicide. Since no women will accept other women in her house who will share her husband. He has submitted that conversation recorded by the investigating officer between the deceased show intense acrimony between the deceased and applicant.

6. Learned counsel for the informant has submitted that there is also C.D.R. details of talking between the

applicant and co-accused, Diksha Sharma. He has submitted that it is not a simple case of abetment of suicide but case of mental torture meted out to the deceased because of relationship with co-accused, Diksha Sharma. By his conduct of pressing the deceased to take divorce and leave his house, he abetted her to commit suicide.

7. Learned A.G.A. has also supported the submissions made by the learned counsel for the informant and opposed the prayer for bail made by the applicant.

8. This court after hearing the rival contention finds that abetment involves mental process to instigate the person or intentionally aid person in doing the same. Hence without positive act on part of the accused to instigate or aid in committing suicide, conviction can not be ordered to under section 306 I.P.C. It requires clear mens rea on the part of accused. It also requires an active act which led the deceased to commit suicide finding no other option and act must be such reflecting intention of accused to push the deceased into such a position that she had no option but to commit suicide. In case of suicide mere allegation of harassment of the deceased by another would not suffice unless there be such action on the part of the deceased which compelled her to commit suicide and such an offending action ought to be proximate to the time of occurrence. Courts have added note of caution also that words uttered in fit of anger or emotion without intending consequence to actually follow can not be said to be instigation. Courts have also held that different

individuals respond to different situations in different manner. Under same set of situation one person may not be disturbed at all; other may be slightly disturbed and some other may be extremely disturbed. If the accused intended to drive the deceased to the extreme step of committing suicide by knowing her temperament well, he would not be absolved of charges under section 306 I.P.C..

9. There is sufficient verbal altercation brought on record alongwith counter affidavit which shows that there was long quarrel between applicant and deceased on phone and co-accused, Diksha Sharma, was also taken on conference. There is also details of talk between the applicant and co-accused, Diksha Sharma, which shows that applicant was not willing to part-ways with co-accused, Diksha Sharma. Deceased asked whether applicant is willing to live with his wife or Diksha Sharma. From the conversation between the two, it is clear that deceased had lost all trust in applicant and was completely shattered. The applicant never assured the deceased that he will mend his ways hence deceased was left with no option but to commit suicide. When she committed suicide the applicant was in the house but he made no efforts to save the deceased.

10. This Court after hearing the learned counsels for the parties does not find any ground for enlarging the applicant on bail at this stage.

11. The bail application is accordingly rejected.

12. The court below is directed to conclude the trial against the applicant, as expeditiously as possible,

preferably within a period of one year from the date of production of certified copy of this order.

Order Date :- 30.11.2023

Atul kr. sri.