

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44500 of 2023

Applicant :- Ambrish Alias Suraj Dushad

Opposite Party :- State of U.P.

Counsel for Applicant :- Sudhir Kumar Agarwal, Mani Ram Verma

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Sudhir Kumar Agarwal, learned counsel for the applicant and Dr.S.B.Maurya, learned AGA-I, for the State.
2. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.235 of 2023, under Sections 302 and 291 IPC, Police Station Ghughali, District Maharajganj during pendency of the trial.
3. FIR of the present case was lodged by the father of the applicant against three persons (non applicant) and according to the FIR, sister of applicant aged about 13 years used to visit the house of nominated accused Harendra Mishra for the purpose to look after his ailing wife and 21.6.2023 at about 10.00 PM in the night nominated accused Harendra Mishra has taken his daughter to his home and thereafter made allegation of theft upon her and beaten her and since then the daughter of the informant was missing.
4. Learned counsel for the applicant submits that FIR of the present case was lodged by the father of applicant under Section 363 IPC with regard to the missing of the minor sister of applicant aged about 13 years but subsequently during investigation with the connivance of the nominated accused Harendra Mishra Police implicated the applicant and his father in the present matter.

5. He further submits that the local police was continuously pressurizing the informant, i.e., father of applicant and his family members including applicant to confess their guilt and in this regard applicant and his family members have also been detained in the Police Station and due to the torture of the Police on 26.7.2023 the mother of applicant made allegation against the applicant and his father, i.e., her husband that on 19.7.2023, both assaulted the deceased and due to the assault made by them, she died.

6. He further submits that the post mortem report of the deceased totally belies the allegation made by the mother of applicant as according to the post mortem report which was conducted on 24.7.2023 deceased died about three days before, i.e., on or around 21.7.2023 but as per the mother of applicant, the alleged sole eye witness, Sunita Devi, the deceased was assaulted by applicant and his father on 19.7.2023 and this mismatch of timing of death of the deceased between the post mortem report and the statement of the witness strengthen the defence version that under the pressure the police the mother of applicant started making allegation against him and his father.

7. He further submits that there is no cogent evidence against the applicant on record which can show that applicant along with the father committed murder of his younger sister.

8. He further submits that the bail application of the father of applicant, namely, Sanjay Dushad, has been allowed by this Court vide order dated 4.10.2023 passed in Criminal Misc.Bail Application No.42208 of 2023.

9. He further submits that applicant is not having any previous

criminal history and in the present matter he is in jail since 26.7.2023.

10. Per contra, learned AGA opposed the prayer for bail and submits that it appears to be a case of honour killing and applicant along with his father committed the murder of his sister and mother of applicant was the eye witness and she in her statement recorded during investigation stated against the applicant and his father but he could not dispute the fact that father of applicant has been released on bail and the case of applicant is at par with him.

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

12. From the perusal of the record it reflects that the allegation against the applicant is similar to his father and with a detailed order this Bench has enlarged the father of applicant on bail vide order dated 4.10.2023 and there is no occasion for this Court to deviate from its earlier opinion.

13. As father of applicant has already been released on bail and the case of applicant is at par with him, therefore, in my view, applicant is also entitled to be released on bail.

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

15. Let the applicant-**Ambrish alias Suraj Dushad** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates

fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

16. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

17. 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 :- 2.11.2023
SKM