

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44683 of 2023

Applicant :- Ikram

Opposite Party :- State of U.P.

Counsel for Applicant :- Gopal Krishna

Counsel for Opposite Party :- G.A., Prashant Ojha

Hon'ble Sameer Jain, J.

1. Heard Sri Gopal Krishna, learned counsel for the applicant, Sri S.P. Rai, Advocate holding brief of Sri Prashant Ojha, learned counsel for the informant and Sri Shatruhan Yadav, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 437 of 2023, under Sections 306 IPC, Police Station Katghar, District Muradabad during pendency of the trial.

3. FIR of the present case was lodged under Section 306 IPC against applicant and 11 others and one unknown person and according to the FIR the brother of the informant was having friendship with the daughters of the applicant and only due to this reason, applicant along with his other associates kidnapped him and taken him to the house of one Anees and thereafter made assault upon him and insulted him. It is further mentioned in the FIR that next date i.e. on 30.08.2023 the dead body of the brother of the informant was recovered.

4. Learned counsel for the applicant submitted that admittedly informant was not an eye witness and it appears that only being father of the girls with whom deceased was having friendship, applicant has been made accused in the present matter. He further submits that the brother-in-law of the informant was eye witness and he also did not state that applicant was even present at spot and he only disclosed the name of one Musarraaf and from the statement of another witness also it reflects that applicant was not present at spot and it appears that only being father of the girl he has been made accused in the present matter.

5. He further submits that there is no cogent evidence on record which can show that due to the abatement of the applicant deceased committed suicide. He further submits that applicant is

not having any criminal history and in the present matter he is in jail since 04.09.2023.

6. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

8. Considering the fact that there is no cogent evidence against the applicant on record on the basis of which, this Court at this stage even can infer that due to the abatement of the applicant deceased committed suicide, in my view, applicant is entitled to be released on bail.

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

10. Let the applicant - **Ikram** 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.

11. 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.

12. 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

AK Pandey