

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51934 of 2023

Applicant :- Surendra Gor

Opposite Party :- State of U.P.

Counsel for Applicant :- Ramesh Chandra

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Ramesh Chandra, learned counsel for the applicant and Sri Imran Khan, learned AGA for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 379 of 2023, under Sections 302, 201 IPC, Police Station Barhalganj, District Gorakhpur during pendency of the trial.
3. FIR of the present case was lodged on 08.06.2023 against applicant and his family members and according to the FIR marriage of the applicant was performed with the sister of the informant about 15 years before and on 07.06.2023 applicant after making assault upon her strangulated her. It is further mentioned in the FIR that after the incident accused persons informed the informant at 11.00 AM and when informant arrived at 12.30 then he was informed that applicant and others have taken her for cremation and when he arrived at the Madraha Ghat then found that cremation of his sister has already been completed.
4. Learned counsel for the applicant submitted that applicant is husband of the deceased and on the basis of false allegation he has been made accused in the present matter. He further submits that some dispute arose between husband and wife and thereafter his wife committed suicide by hanging herself and thereafter informant and his family members were immediately informed and after receiving information they arrived and participated in the cremation but subsequently next day informant lodged FIR on the basis of false allegation.
5. He next submits that even during investigation Investigating Officer after inquiry also came to know that due to dispute between husband and wife, wife committed suicide and this fact is evident from Parcha No. 29 dated 09.06.2023 annexed along with instant bail application.

6. He further submits that there is no evidence on record, which can show that it is a case of homicidal death and applicant is not having any criminal history and in the present matter he is in jail since 13.07.2023.

7. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is husband of the deceased and in hurry after the death of the deceased, he did the cremation and this fact creates doubt and possibility cannot be ruled out that after committing the murder of deceased, applicant did her cremation in absence of informant and his family members.

8. He however could not dispute the fact that even as per informant within one hour from the information, informant arrived at the matrimonial home of the deceased and thereafter he immediately had gone to Madraha Ghat where it is alleged that cremation was done.

9. He further could not dispute the fact that during investigation after inquiry Investigating Officer also initially came to know that due to the dispute between husband and wife, deceased committed suicide. He further could not dispute the fact that even from the statement of the Bhabhi of the deceased recorded by the Investigating Officer during investigation, which has been annexed along with instant bail application, it reflects that some dispute between husband and wife was pending.

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

11. However, applicant is husband of the deceased and it appears that without post mortem, the dead body of the deceased was cremated and as per allegation made in the FIR without waiting the informant and his family members the cremation was done but in paragraph no. 10 of the affidavit, applicant has made a specific averment that after the incident, immediately informant was informed and he arrived and participated in the cremation and even from the FIR it reflects, within one hour of the information informant arrived.

12. Further, as per defence due to the dispute between husband and wife, wife committed suicide by hanging herself and when during investigation Investigating Officer made inquiry from the villagers then they also informed the Investigating Officer that due to the dispute between husband and wife deceased committed suicide and this fact is evident from the G.D. entry, which has been

annexed along with instant bail application.

13. Further, from the statement of Bhabhi of the deceased, which has been annexed along with instant bail application, it also reflects that some matrimonial dispute was pending between husband and wife, therefore, from the discussion made above, at this stage, the defence taken by the applicant cannot be completely brushed aside.

14. Further, applicant is not having any criminal history and in the present matter he is in jail since 13.07.2023.

15. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

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

17. Let the applicant - **Surendra Gor** 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.

18. 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.

19. 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 :- 5.12.2023
AK Pandey