

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46211 of 2023

Applicant :- Raghuveer Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajat Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

Heard Mr. Rajat Kumar Shukla, the learned counsel for applicant and the learned A.G.A. for State.

This application for bail has been filed by applicant Raghuveer Singh seeking his enlargement on bail in Case Crime No.220 of 2020, under Sections 147, 302 IPC, police station Raya, district Mathura, during the pendency of trial.

Perused the record.

Record shows that in respect of an incident which is alleged to have occurred on 02.07.2020, a delayed first information report dated 03.07.2020 was lodged by first informant, namely, Ramveer Singh (father of the deceased) and was registered as Case Crime No.0220 of 2020, under Sections 147, 302 IPC, police station Raya, district Mathura. In the aforesaid F.I.R., five persons, namely, Praveen Kumar; Raghuveer Singh (applicant herein); Dilip Kumar, Smt. Vevo and Jamuna Devi have been nominated as named accused.

The gravamen of the allegations made in the FIR is to the effect that the marriage of daughter of the first informant, namely, Mantosh @ Mamta was solemnized with Praveen Kumar in the year 2006. However, just after expiry of a period of three years and few months from the date of marriage of daughter of first informant an unfortunate incident occurred on 02.07.2020 in which the daughter of the first informant received burn injuries.

It is apposite to mention here that after the occurrence had taken place, the victim was taken to the hospital. While the victim was undergoing treatment, her dying declaration was recorded, copy of which is on record at page 30 of the paper book. The victim in her dying declaration has clearly implicated Raghuveer Singh (applicant herein) and his son Dilip Singh for pouring diesel upon her and further implicated her husband Praveen Kumar who threw a lighting match upon her. The victim succumbed to the injuries sustained by her while undergoing treatment. Upon the death of the deceased,

information regarding same was given at the concerned police station by CC Rakesh Kumar police station Highway. Accordingly, inquest (Panchayatnama) of body of the deceased was conducted on 07.07.2020. In the opinion of the witnesses of inquest (Panch witnesses), the nature of death of deceased was categorized as homicidal and the cause of death of the deceased was said to be burn injuries. Thereafter, the post mortem of body of the deceased was conducted. In the opinion of the autopsy surgeon, who conducted autopsy of the body of deceased, the cause of death of deceased was Septicemia and shock as a result of ante-mortem burn injuries. The autopsy surgeon found following ante-mortem injuries on the body of deceased, which is explicit from the recital contained at page 49 of the paper book :-

"1. About 95%, lInd burn of the whole body, except hair and forehead. Skin peeled off at places.

2. Surgical dressing present all on the body from the neck to both toes."

During course of investigation, Investigating Officer examined first informant and other witnesses under Section 161 CrPC. The witnesses so examined have supported the FIR. On the basis of above and other material collected by the Investigating Officer during the course of investigation, he came to the conclusion that the complicity of three of the named accused, namely, Praveen Kumar (husband); Raghuveer Singh-applicant herein (cousin father-in-law) and Jamuna Devi (mother-in-law) of the deceased is fully established in the crime in question. He, accordingly, submitted police report under Section 173 (2) CrPC i.e. charge-sheet dated 08.10.2020, whereby aforementioned three named accused have been charge-sheeted under Sections 147, 302 IPC.

Learned counsel for applicant submits that after submission of above-mentioned charge-sheet dated 08.10.2020, cognizance was taken upon same by the concerned Magistrate. However, as offence complained of is triable exclusively by the court of Sessions, concerned Magistrate committed the case to the court of Sessions. Resultantly, Sessions Trial No.1779 of 2023 (State Vs. Praveen Kumar) came to be registered. Up to this stage, five prosecution witnesses of fact including the autopsy surgeon, namely, Dr. Chitresh Kumar Nirmal i.e. PW-5 have been examined. With reference to the statement of PW-5-Dr. Chitresh Kumar Nirmal i.e the autopsy surgeon, he submits that since the prosecutrix had sustained 95% burn injuries therefore, she could not have given the dying declaration as alleged by the prosecution. Considering the serious condition of the victim, the dying declaration is not worthy of credit and is therefore liable to be discarded as per the law laid down by the Apex Court in **Sharad Birdhichand Sarda Vs. State of**

Maharashtra AIR 1984 SC 1622. Even otherwise applicant is the cousin father-in-law of the deceased. There could not be any motive for the applicant to commit the crime in question.

Even otherwise, the applicant is a man of clean antecedents having no criminal history to his credit except the present one. The applicant is in jail since 08.09.2020. As such, he has undergone more than two years of incarceration. The police report under Section 173 (2) CrPC has already been submitted. As such, the entire evidence sought to be relied upon by the prosecution against applicant stands crystalized. Up to this stage, no such circumstance has emerged necessitating the custodial arrest of applicant during the pendency of trial. He, therefore, submits that applicant is liable to be enlarged on bail. In case the applicant is enlarged on bail, he shall not misuse the liberty of bail and shall co-operate with the trial.

Per contra, the learned A.G.A. has vehemently opposed the prayer for bail. He submits that since the applicant is a named as well as charge-sheeted accused therefore, he does not deserve any indulgence by this court. Much emphasis was laid by the learned A.G.A. upon the dying declaration of the deceased, copy of which is on record at page 30 of the paper book. With reference to above, the learned A.G.A. submits that the deceased has clearly implicated the applicant, his son Dilip Kumar and her husband Praveen Kumar in the crime in question. The statement of the autopsy surgeon who certified that the victim is in such a position to give her dying declaration has not been brought on record therefore, the veracity of the submissions urged by the learned counsel for applicant doubting the credibility of the dying declaration of the prosecutrix cannot be accepted. He further submits that according to the learned counsel for applicant the dying declaration of the deceased has already been admitted in evidence and marked as Exhb.Ka-5. Once a document has been exhibited, it does not require any formal proof. On the above premise, he contends that no sympathy be shown by this court in favour of applicant. As such, the present application for bail is liable to be rejected.

When confronted with above, the learned counsel for applicant could not overcome the same.

Having heard the learned counsel for applicant, the learned A.G.A. for State, upon perusal of material brought on record, nature and gravity of offence, evidence, complicity of the accused, accusation made, coupled with the fact that the objections raised by the learned A.G.A. in opposition to the present application for bail could not be dislodged by the learned counsel for applicant therefore, irrespective of the varied submissions urged by the learned counsel for applicant

in support of the present application for bail, this Court does not find any good or sufficient ground to enlarge the applicant on bail.

This application for bail thus fails and is liable to be rejected.

It is accordingly **rejected**.

Order Date :- 22.11.2023.
Rks.