

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46079 of 2023

Applicant :- Shyamnarayan Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Shivajee Srivastava, Ritesh Kumar Shukla, Sudhir Kumar Srivastava

Counsel for Opposite Party :- G.A., Kailash Nath Singh, Vivek Kumar Singh

Hon'ble Sameer Jain, J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Shivajee Srivastava, learned counsel for the applicant, Sri Vivek Kumar Singh, learned counsel for the informant and Sri Imran Khan, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 226 of 2023, under Section 304 IPC, Police Station- Khutahan, District- Jaunpur, during pendency of the trial in the court below.
4. FIR of the present case was lodged on 31.08.2023 against applicant under Section 304-A IPC and according to the FIR, applicant has taken the nude electric wire illegally from his field and due to his illegal nude electric wire, husband of the informant died due to electrocution on 19.08.2023 at about 6:00 p.m. in the evening.
5. Learned counsel for the applicant submitted that FIR of the present case was lodged after 12 days under Section 304-A IPC but during investigation case was converted under Section 304 IPC. He further submitted that admittedly deceased died due to electrocution and therefore, it is apparent that applicant was not having any intention to cause his death. He further submitted that applicant has not illegally taken any electric wire from his field and due to negligence of the deceased due to electrocution, he died.
6. He further submitted that applicant is not having any criminal

history and he is in jail since 11.09.2023.

7. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that by illegal way applicant has taken electric wire through his field and due to this reason, husband of the informant died due to electrocution, therefore, applicant should not be released on bail.

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

9. Considering the fact that FIR of the present case was lodged after 12 days under Section 304-A IPC and post-mortem report of the deceased suggests that he died due to electrocution, in my view, applicant is entitled to be released on bail.

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

11. Let the applicant- **Shyamnarayan Yadav** 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.

12. 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.

13. 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 :- 1.11.2023

KK Patel