

**Neutral Citation No. - 2023:AHC:225755**

**Reserved On:- 24.11.2023**

**Delivered On:- 30.11.2023**

**Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46379 of 2023**

**Applicant :- Ritesh Pandey**

**Opposite Party :- State of U.P.**

**Counsel for Applicant :- Saher Naqvi**

**Counsel for Opposite Party :- G.A., Neeraj Kumar Pandey**

**Hon'ble Siddharth, J.**

1. Heard Ms. Saher Naqvi, learned counsel for the applicant, Shri Neeraj Kumar Pandey, learned counsel for the informant and learned A.G.A.

2. There is allegation that the elder son of the informant, Shivam, aged about 29 years was found hanging on the first floor of his house on 12.04.2022 with the help of gamchha and chaddar. After inquest, post-mortem and last rites of dead body of the deceased a suicide note was found in his room wherein he had implicated the applicant and co-accused, Vishal Mishra. Hence, the FIR was lodged on 14.04.2022 under Section 306 IPC.

3. Learned counsel for the applicant submits that there were some dispute of money between the applicant and his brother-in-law, Himanshu Mishra. There is whatsapp chat between them regarding demand of money on 24.03.2022 and after 12 days the deceased committed suicide. The informant had taken money from number of persons and his deceased son was under pressure since his father was not returning the money. The

applicant only demanded money from the deceased and he never abetted him to commit suicide.

4. Learned counsel for the applicant also submits that even from the suicide note the offence of abetment of suicide is not made out. The deceased has stated in his suicide note that the applicant has compelled him to take share in trading and caused him loss and spent some money on himself. He is also threatening him when he is demanding further money. Co-accused, Vishal Mishra, was also conniving with him.

5. Counsel for the applicant further submits that the deceased has lost his money in trading and has committed suicide and falsely implicated the applicant in this case.

6. Counsel for the informant has vehemently opposed the bail application. He has submitted that he has relied upon the whatsapp chat which appears to be between the deceased and the applicant. He has submitted that it is clear from the whatsapp chat that there were monetary relationship between the two and they were also involved in share trading.

7. Learned A.G.A has also opposed the bail application of the applicant.

8. After hearing the rival contentions, this Court finds that the deceased along with applicant and co-accused were involved in trading wherein money invested by the deceased got lost. Thereafter, he committed suicide in disguised. The ingredients for constituting the offence under Sections 306/107 IPC are not made out against the applicant.

9. Keeping in view the nature of the offence, evidence, complicity of the accused, submissions of the learned counsel for the parties, larger mandate of the Article 21 of the Constitution of India, considering the dictum of Apex Court in the case of Dataram Singh Vs. State of U.P. and another reported in (2018) 3 SCC 22 and recent judgment dated 11.07.2022 of the Apex Court in the case of Satendra Kumar Antil vs. C.B.I., passed in S.L.P (Crl.) No. 5191 of 2021 and considering 5-6 times overcrowding in jails over and above their capacity by the under trials and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

10. Let the applicant, Ritesh Pandey, involved in Case Crime No. 107 of 2022, under Section- 306 IPC, Police Station- Phaphamau, District- Prayagraj, be released on bail on her furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence,

without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) In case the applicant misuses the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the Court on the date fixed in such proclamation then the Trial Court shall initiate proceedings against him in accordance with law under Section 174-A of the Indian Penal Code.

(v) The applicant shall remain present in person before the Trial Court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

11. In case, of breach of any of the above conditions, it shall be a ground for cancellation of bail.

12. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

**Order Date :- 30.11.2023**

Rohit