

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47471 of 2023

Applicant :- Aman

Opposite Party :- State of U.P.

Counsel for Applicant :- Sandeep Kumar Srivastava

Counsel for Opposite Party :- G.A., Ambleshwar Pandey, Anuj Srivastava, Shubham

Hon'ble Dr. Gautam Chowdhary, J.

1. Heard learned counsel for the applicant, learned A.G.A for the State as well as Shri Virendra Pandey, learned counsel for the informant and perused the record.

2. It has been argued by learned counsel for the applicant that the applicant is innocent and has been falsely implicated in the present case. Learned counsel further submits that on 10.08.2023 at about 12:08 p.m. a first information report was lodged by the informant against the applicant and one co-accused namely Sumit, with regard to an incident occurred on 08.08.2023 at about 2:00 p.m. with the allegation that on account of regular harassment and molestation being made by both the named accused persons, his daughter namely Shivani aged about 20 years, committed suicide by hanging herself. Learned counsel for the applicant further submits after inquest proceedings, postmortem of the deceased was conducted wherein except one ligature mark of size 16.0 x 2.0 c.m. no other injury was found on the person of the deceased and her cause of death was found to be asphyxia, however, viscera was preserved. Learned counsel for the applicant further submits that co-accused, Sumit, in his confessional statement before the police has stated that a friendship relation was developed between him and the deceased, they used to talk with each other on mobile phone and they want to solemnize marriage, which fact when came into the knowledge of the family members of the deceased they apprehend him not to talk with the deceased, but despite of that they used to talk with each other and he used to make pressure upon her to marry with him and the applicant is his friend. Learned counsel for the applicant further submits that the present applicant in his confessional statement before the police has stated that he has no concern with the deceased, there was friendship relation between Sumit and the deceased, they used to talk with each other, he never talked with the deceased, his name has been implicated in the case due to his friendship with the co-accused, Sumit. Learned counsel for the applicant further submits that mother of the victim in her statement before the police has stated that her daughter died

by hanging herself, she used to tell her both the accused persons used to molest her on account of which she became under mental pressure on account of which she committed suicide. Learned counsel for the applicant further submits that other independent witnesses in their statements have also stated that both the accused were used to harass and molest the deceased, on account of which she committed suicide. Learned counsel for the applicant further submits that there is no independent or eye witness of the incident, the applicant had not instigated the deceased to commit suicide and he has falsely been implicated in the case only on the basis of suspicion, the only evidence against the applicant is his confessional statement given before the police, which is not admissible. Learned counsel for the applicant further submits that applicant has been implicated in the case because he was the friend of co-accused, Sumit, who used to talk with the deceased and they want to solemnize marriage with each other and except that no overt act has been assigned to the present applicant by the complainant, his wife and other independent witnesses, the case of applicant is on different footing than that of the case of co-accused, Sumit, who was in relation with the deceased and used to talk with her, thus, the applicant has falsely been implicated in the case and no offence against the applicant is made out. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. He next submits that applicant is languishing in jail since 30.08.2023, having no criminal history.

3. Per contra, learned A.G.A. as well as the learned counsel for the informant have opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence.

4. After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, without expressing any opinion on merits of the case, this Court is of the view, that the applicant may be enlarged on bail.

5. Let applicant-**Aman**, involved in Case Crime No. 160 of 2023, under Section 306 I.P.C., Police Station Bhawan Bahadur Nagar, District Bulandshahar, be enlarged on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

(i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

(ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date 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.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. 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., may be issued and if 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 I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) 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 and the trial court may proceed against him under Section 229-A IPC.

6. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail in accordance with law.

7. The bail application is **allowed**.

Order Date :- 7.11.2023 /Mustaqeem.