

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46419 of 2023

Applicant :- Subash Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Digambar Dwivedi,Sheetala Prasad Pandey

Counsel for Opposite Party :- G.A.,Brijesh Kumar Mishra

Hon'ble Samit Gopal,J.

1. List revised.
2. Heard Sri Sheetala Prasad Pandey, learned counsel for the applicant, Sri Brijesh Kumar Mishra, learned counsel for the first informant and Sri Ajay Singh, learned AGA-I for the State and perused the records.
3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant **Subash Yadav**, seeking enlargement on bail during trial in connection with Case Crime No. 94 of 2023, under Sections 302, 201 IPC, registered at P.S. Bhatpar Rani, District Deoria.
4. The FIR of the matter was lodged on 04.07.2023 by Amarjeet Singh against the applicant and Sudha Devi alleging therein that his younger brother Chandrama Singh was married in the year 2015 and had a son with Sudha Devi. Sudha was having love relationship with Subhash Yadav the applicant and his brother on coming to know of it opposed it. Sudha got angry about a year back and went to her maternal house. On 22.06.2023 in the marriage of daughter of the informant, Sudha did not come. On 25.06.2023 Sudha called his brother Chandrama Singh to her maternal house. On 28.06.2023 police of Police Station Bhatpar Rani was informed that his brother has been murdered after which he reached there and was informed that the body has been sent for postmortem. The dead body of his brother was found about 200 meters away from the maternal house of Sudha. Sudha along with her lover Subhash Yadav has murdered his brother Chandrama and had thrown his body in the drain.
5. Learned counsel for the applicant argued that the applicant has

been falsely implicated in the present case. It is argued that there is no eye witness to the murder. It is argued that in the present matter subsequently, two persons surfaced as eye witnesses being Smt. Rinki Devi and Moti Lal. It is argued that in the statement of Rinki Devi there is no such credible information given which would implicate the applicant in the present matter. It is argued that in so far as Moti Lal is concerned, he has although stated that at about 09:00 pm on 25.06.2023 he saw Subhash and Sudha carrying some person on their shoulder and Sudha was carrying a polythene along with a pant and were going towards the cremation ground. He got terrified and then ran away towards the house. It is argued that Moti Lal was interrogated after ten days of the incident which is in itself sufficient to show that he was a got up and cooked up witness. It is argued that there is no recovery of any incriminating material. Para 13 and 14 of the affidavit have been placed before the Court to buttress the said arguments. He further argued that the applicant has no criminal history as stated in para 21 of the affidavit and is in jail since 16.07.2023.

6. Per contra, learned counsel for the first informant and learned counsel for the State opposed the prayer for bail and argued that the applicant is named in the FIR and there are allegations against him. It is further argued that there are call details which was collected during investigation which goes to show the calls between Sudha Devi and the applicant at the time of the incident. It is argued that the present case is a case of witness Moti Lal seeing the applicant and co-accused Sudha Devi carrying someone on their shoulder after which the body of the deceased was found. It is argued that charge sheet in the matter has been submitted against the applicant and Smt. Sudha Devi. The applicant has motive to commit the aforesaid offence. It is argued that there is no reason for false implication of the applicant and as such the prayer for bail of the applicant be rejected.

7. After having heard learned counsels for the parties and perusing the records, it is evident that the applicant is named in the FIR. The allegation is of the applicant of having illicit relationship with the wife of the deceased which was being objected by the deceased and the applicant and co-accused were seeing carrying the body of someone by Moti Lal and throwing it. The body was recovered from the said place. Charge sheet in the matter has been submitted against the applicant and co-accused Sudha Devi. I do not find it a fit case for bail.

8. Considering the totality of the case in particular, nature of evidence available on record, I am not inclined to release the

applicant on bail.

9. The bail application is, accordingly, ***rejected***.

Order Date :- 20.11.2023

M. ARIF

(Samit Gopal, J.)