

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46452 of 2023

Applicant :- Subham

Opposite Party :- State of U.P.

Counsel for Applicant :- Arvind Kumar Sahu

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Shri Arvind Kumar Sahu, learned counsel for the applicant, Shri Ravi Kant Kushwaha, learned A.G.A. for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.703 of 2022, under Sections 420, 342, 504, 506, 386, 388, 302, 120-B, 34 IPC & Section 3/4 D.P. Act & Sections 66-E and 67 I.T. Act, Police Station Subhash Nagar, District Bareilly, during pendency of the trial in the court below.

3. FIR of the present case was lodged on 04.12.2022, under Sections 420, 342, 384, 504, 506, 120-B IPC against one Priya Gangwar and some unknown persons and according to the F.I.R., on the call of alleged nominated accused Priya Gangwar, the informant, who was medical practitioner, on 20.11.2022 had gone to her house and in the room, nominated accused Priya Gangwar started doing indecent activities with him and other unknown persons were started making video and after threatening him, Rs.50,000/- were withdrawn through A.T.M. Card and again on 25.11.2022 nominated accused and her associates came at the house of the informant and demanded Rs.50,000/-. It is further

mentioned in the F.I.R. that the nominated accused Priya Gangwar and her associates tortured and threatened the informant.

4. Learned counsel for the applicant submits that initially F.I.R. of the present case was lodged Sections 420, 342, 384, 504, 506, 120-B IPC but as per allegation, in the month of February, 2023 due to torture of the accused persons including applicant, the informant, who was medical practitioner, committed suicide and thereafter case was converted under Section 302 I.P.C.

5. He further submits that applicant was not named in the F.I.R. and during investigation his name was surfaced in the statment of his daughter in the present matter and there is absolutely no evidence with regard to murder of the deceased and even as per the statement of the daughter of the deceased due to torture of the accused persons including applicant, he committed suicide but in spite of that applicant is detained for offence under Section 302 I.P.C.

6. He further submits that even as per F.I.R., which was lodged by the deceased himself, it appears that on 20.10.2022, he was made victim of Honey Trap but application for lodgement of the F.I.R. was moved by him on 03.12.2022 i.e. after more than a month and this fact clearly suggests that after a month a false story has been cooked up by the informant (since deceased).

7. He further submits that applicant is not having any previous criminal history and he is in jail in the present matter since 09.09.2023, therefore, he may be released on bail.

8. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that there is absolutely no evidence of murder

of the deceased on record as deceased committed suicide due to torture. Further, he could not dispute the fact that applicant was not named in the F.I.R.

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

10. Considering the fact that applicant was not named in the F.I.R. and his name was surfaced during investigation after the death of the informant (since deceased) on the basis of the statement of the daughter of the deceased and there is no evidence of murder, in my view, applicant is entitled to be released on bail.

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

12. Let the applicant-**Subham**, 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.

13. 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.

14. 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 :- 23.11.2023

Zafar