

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48020 of 2023

Applicant :- Ravi

Opposite Party :- State of U.P.

Counsel for Applicant :- Sitaram Patel, Brij Lal Jha, Vinkesh Ojha

Counsel for Opposite Party :- G.A., Dhirendra Kumar Verma, Pragyakar Mani Tripathi

Hon'ble Samit Gopal, J.

1. List revised.
2. Heard Sri Sitaram Patel, learned counsel for the applicant and Sri Ram Prakash Shukla, learned counsel for the State and perused the material on record. Sri Pragyakar Mani Tripathi and Sri Dhirendra Kumar Verma, learned counsel for the first informant is not present even when the matter is taken in the revised list.
3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- **Ravi**, seeking enlargement on bail during trial in connection with Case Crime No. 260 of 2023, under Section 306 I.P.C., Police Station Rajpura, District Sambhal.
4. The first information report of the present matter was lodged on 09.08.2023 by Om Prakash against the applicant and Pushpa alleging therein that his daughter-in-law Pushpa wife of Sanjay went from the house on 27.07.2023 on the pretext of getting medicines after which she eloped with Ravi (the present applicant). On pressure of people of the village she returned back on 04.08.2023 after which there used to be fights daily with his son. She used to exhort his son to go and die and tell him that she does not want to live with him. She also refused physical relation with him due to which his son got depressed and on 08.08.2023 at about 7.30 a.m. committed suicide.
5. Learned counsel for the applicant argued that there was some dispute between the deceased and Pushpa due to which the deceased committed suicide and died. It is argued that the applicant has no motive to commit the aforesaid offence. It is

argued that the doctor did not find any bodily injury on the body of the deceased except a ligature mark. The cause of death has been opined as asphyxia as a result of antemortem hanging. Learned counsel for the applicant argued that there is no abetment and instigation of any kind by the applicant which has any nexus with the death of the deceased, the applicant has no mens-rea at all, there is no overt act whatsoever of the applicant, which resulted in the death of the deceased, the applicant has no motive at all to commit the aforesaid offence. The applicant has no criminal history as stated in para 19 of the affidavit and is in jail since 25.08.2023.

6. *Per contra*, learned counsel for the State opposed the prayer for bail.

7. After having heard learned counsel for the parties and perusing the record, it is evident that there is no abetment and instigation of any kind by the applicant which has any nexus with the death of the deceased, the applicant has no mens-rea at all, there is no overt act whatsoever of the applicant, which resulted in the death of the deceased, the applicant has no motive at all to commit the aforesaid offence.

8. Looking to 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, this Court is of the view that the applicant may be enlarged on bail.

9. Let the applicant- **Ravi**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

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.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

10. 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 and send the applicant to prison.

11. The bail application is **allowed**.

Order Date :- 24.11.2023

AS Rathore

(Samit Gopal,J.)