

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49202 of 2023

Applicant :- Devendra

Opposite Party :- State of U.P.

Counsel for Applicant :- Shiv Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Shiv Kumar Singh, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 84 of 2023 (S.T. No. 241 of 2023), under Section 306 IPC, Police Station Ait, District Jalaun during pendency of the trial.

3. FIR of the present case was lodged on 06.06.2023 under Section 306 IPC against applicant and his wife and according to the FIR on 28.03.2023 one Dolu @ Manvendra committed rape with the daughter of the informant with the help of applicant and his wife and in this regard on 04.06.2023 FIR was lodged. It is further mentioned in the FIR that applicant and his wife abated the husband of the informant and due to their abatement on 05.06.2023 he committed suicide by hanging herself.

4. Learned counsel for the applicant submitted that on the basis of false allegation earlier applicant was made accused along with Dolu @ Manvendra in case under Section 376 IPC and there was no allegation of rape against the applicant and it was alleged that with the help of applicant and his wife, co-accused Dolu @ Manvendra committed rape with the daughter of the informant and subsequently when due to some reason father of the victim i.e. husband of the informant of the present case committed suicide then applicant and his wife made accused in the present matter on the ground that on their instigation and abatement, deceased committed suicide.

5. He further submits that even from the perusal of the FIR and statement of witnesses, it appears that on the basis of vague allegation of abatement, applicant has been made accused along

with his wife.

6. He further submits that apart from the case of rape and present matter, there is no other case is pending against the applicant and in the present matter applicant is in jail since 05.06.2023 i.e. for almost six months.

7. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

9. As per the allegation co-accused Dolu @ Manvendra committed rape with the daughter of the informant with the help of applicant and his wife and thereafter applicant and his wife instigated the father of the victim i.e. husband of the informant and due to their abatement he committed suicide, the allegation of abatement appears to be vague.

10. Further, apart from the present case and case under Section 376 IPC stated above, applicant is not having any previous criminal history to his credit and applicant in the present matter applicant is in jail since 05.06.2023 i.e. for almost six months.

11. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

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

13. Let the applicant - **Devendra** 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.

14. 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.

15. 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 :- 20.11.2023

AK Pandey