

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49938 of 2023

Applicant :- Dalchand

Opposite Party :- State of U.P.

Counsel for Applicant :- Pavan Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. List revised.
2. Heard Sri Pavan Kumar, learned counsel for the applicant, Sri Ajay Singh, learned AGA-I for the State and perused the material on record.
3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Dalchand, seeking enlargement on bail during trial in connection with Case Crime No.194 of 2023, under Sections 302, 201, 120B I.P.C. registered at P.S. Badhapur, District Jaunpur.
4. The F.I.R. of the matter was lodged on 30.8.2023 under Sections 302, 201 I.P.C. by Smt. Basanti against Puja, Sonu and Dalchand (present applicant) alleging therein that on 18.8.2023 her son Pappu aged about 42 years, was taken by Puja her daughter-in-law to her maternal house. On 23.8.2023 one Rishipal has received an information on his mobile phone through Puja that on 22.8.2023 at about 5.00 pm Pappu had gone with her to the fields and when she returned back, Pappu was not found in the house. She with her family members searched her son a lot but her son was not traceable. She then lodged a missing report on 25.8.2023. Later on, some people told her that the accused persons have murdered her son Pappu and concealed the dead body somewhere.
5. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the applicant is step-father of Smt. Puja the wife of the deceased Pappu. It is argued that Smt. Basanti the informant in her statement under Section 161 Cr.P.C. has reiterated the version of the F.I.R. but subsequently she in her second statement recorded under Section 161 Cr.P.C. has stated that Hukum Singh the son of Amar Singh had illicit relationship with Puja her daughter-in-law and sometimes ago her son Pappu caught

red handed both in a room and because of said illicit relationship, the accused persons have murdered her son and concealed his body. It is argued that co-accused Hukum Singh has been granted bail by a co-ordinate Bench of this Court vide order dated 31.10.2023 passed in Criminal Misc. Bail Application No. 45781 of 2023, Hukum Singh vs. State of U.P., copy of the said order has been annexed as Annexure No. 10 to the affidavit in support of bail application. It is argued that the prosecution has shown recovery of adhaar card and slippers of the deceased on the pointing out of the applicant from the place of incident near river but the same is an open place accessible to all. It is argued that the applicant has no other criminal antecedents as stated in para-24 of the affidavit and is in jail since 02.09.2023.

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

7. After having heard learned counsels for the parties and perusing the record, it is evident that the applicant is step-father of Puja the wife of the deceased Pappu. The prosecution case is of Puja was having illicit relationship with co-accused Hukum Singh. Hukum Singh has been granted bail by a co-ordinate Bench of this Court.

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- Dalchand, 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.

(Samit Gopal,J.)

Order Date :- 22.11.2023
Naresh