

Neutral Citation No. - 2023:AHC:235602

Reserved On:- 07.12.2023

Delivered On:- 12.12.2023

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50091 of 2023

Applicant :- Ajay Singh Chauhan @ Bittu

Opposite Party :- State of U.P.

Counsel for Applicant :- Sunil Vashisth, Sujeet Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth, J.

1. Heard Sri Sunil Vashisth, learned counsel for the applicant and learned A.G.A. for the State.
2. There is allegation against the applicant of committing the offence of murder of a girl with whom he had love affair.
3. Learned counsel for the applicant submits that in the FIR, one, Anil Tiwari and two accused persons, were implicated for committing the alleged offence. He has submitted that admittedly there was love affair of applicant with deceased but on account of difference of their caste her parents refused to marry her to the applicant. After her dead body was recovered inquest proceedings were conducted where Pratap Singh who was real uncle of deceased was one of the witness. He has further stated that all the witnesses testified to commission of alleged offence by named accused, Anil Tiwari and two other accused but applicant was implicated in this case only because of 193 calls made by him on the mobile phone of deceased for last 10 days prior to her death.
4. Learned counsel for applicant also submits that it is a case of false implication of the applicant. There is eye-witness account against named

co-accused, Anil Tiwari, but not against applicant. He was on talking terms with deceased since they had love affairs but appears that she was done to death by way of honour killing and applicant was falsely implicated in this case. The mobile location of the applicant collected does not suggests his presence in the house or village of deceased. On the fateful night of 25.07.2023 location of mobile phone of applicant was found in the range of Alipur Keshopur Bhadehi Kishni tower which has range of 20 km. The cousin of applicant, Ranveer Singh, resides in the village Bhadeshi which is one km from the village of deceased. False recovery of data cable has been shown on the pointing out of the applicant from the room where the deceased was done to death after 12 days of the incident. There is no explanation how even after 12 days the data cable was found lying in the room where deceased was done to death. There also no evidence that data cable belonged to applicant and applicant was falsely implicated due to ulterior motive. It is a case of false implication of the applicant. Honour killing of the deceased was got done by her family members. He is in jail since 07.08.2023 and has no criminal history to his credit.

5. Learned A.G.A has opposed the bail application of the applicant but could not dispute the above submissions.

6. Keeping in view the nature of the offence, evidence, complicity of the accused, submissions of the learned counsel for the parties, larger mandate of the Article 21 of the Constitution of India, considering the dictum of Apex Court in the case of Dataram Singh Vs. State of U.P. and another reported in (2018) 3 SCC 22 and recent judgment dated 11.07.2022 of the Apex Court in the case of Satendra Kumar Antil vs. C.B.I., passed in S.L.P (Crl.) No. 5191 of 2021 and considering 5-6 times overcrowding in jails over and above their capacity by the under trials and without expressing any opinion on the merits of the case, the Court is of

the view that the applicant has made out a case for bail. The bail application is allowed.

7. Let the applicant, Ajay Singh Chauhan @ Bittu, involved in Case Crime No. 494 of 2023, under Section 302 IPC, Police Station- Kishni, District- Mainpuri, be released on bail on her furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates 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.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) 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. is issued and the 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 of the Indian Penal Code.

(v) The applicant shall remain present in person before the Trial Court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) 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.

8. In case, of breach of any of the above conditions, it shall be a ground for cancellation of bail.

9. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 12.12.2023

Rohit