

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52621 of 2023

Applicant :- Sandeep Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Premnendra Singh, Shyam Murari Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Premnendra Singh, learned counsel for the applicant and Dr. S.B. Maurya, learned AGA-I for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 512 of 2022, under Sections 306 IPC, Police Station Nawabganj, District Prayagraj during pendency of the trial.

3. FIR of the present case was lodged on 22.08.2022 through an application under Section 156(3) Cr.P.C. under Section 302 IPC against applicant and his sister and according to the FIR marriage of the applicant was performed with the daughter of the informant in the year 2012 and after marriage applicant and his sister tortured her and due to the dispute arose between applicant, his sister and daughter of the informant on 14.04.2022 applicant and his sister committed her murder.

4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and FIR of the present case was lodged after about four months through an application under Section 156(3) Cr.P.C. He further submits that in the FIR however, it is mentioned that applicant committed the murder of his wife, therefore, FIR was lodged under Section 302 IPC but as on the information of the applicant way back about four months before post mortem of the deceased was conducted and during autopsy the cause of death was found ante mortem hanging, therefore, during investigation present case was converted under Section 306 IPC.

5. He further submits that applicant is husband of the deceased and he was not having any dispute with his wife i.e. deceased and

some dispute arose between deceased and sister of the applicant and only due to this reason she hanged herself. He next submits that immediately after the incident i.e. 14.04.2022 applicant himself informed the police and on his information inquest was conducted and this fact is evident from the inquest report, which has been annexed at page-47 of the paper-book.

6. He further submits that however FIR of the present case was lodged in the month of August, 2022 but applicant was neither interrogated by the police nor police made any attempt to arrest the applicant, therefore, applicant could not become aware about the FIR of the present case and when applicant was arrested in October, 2023 then he came to know that he was wanted in the present matter.

7. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 01.10.2023.

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

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

10. However, applicant is husband of the deceased and it appears that in the present matter his wife died but from the record, it reflects that FIR of the present case was lodged after four months through an application under Section 156(3) Cr.P.C. and after the death of the deceased i.e. his wife, applicant himself informed the police and on his information inquest was conducted and even from the perusal of the post mortem report, it appears that deceased died due to hanging, therefore, defence taken by the applicant cannot be completely ruled out at this stage.

11. Further, however, it appears that applicant was arrested after more than a year but FIR of the present case was lodged after four months of the incident through an application under Section 156(3) Cr.P.C. and learned AGA could not bring any record that during investigation applicant tried to evade his arrest, therefore, argument advanced by learned counsel for the applicant in this regard also cannot be completely discarded.

12. Further, applicant is not having any criminal history and in the present matter he is in jail since 01.10.2023.

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

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

15. Let the applicant - **Sandeep Kumar** 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.

16. 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.

17. 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 :- 8.12.2023

AK Pandey