

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53644 of 2023

Applicant :- Imran

Opposite Party :- State of U.P.

Counsel for Applicant :- Zafar Abbas, Sarve Nazir

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Vakalatnama filed today by Sri Abhay Mishra, Advocate on behalf of the informant, is taken on record.

2. Heard Sri Zafar Abbas, learned counsel for the applicant; Sri Prateek Srivastava, Advocate holding brief of Sri Abhay Mishra, learned counsel for the informant and Sri Ajeet Madheysia, learned AGA for the State-respondent.

3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 403 of 2022, under Section 306 IPC, Police Station Mundhapandey, District Moradabad, during pendency of the trial in the court below.

4. FIR of the present case was lodged on 30.12.2022 under section 306 IPC against three named (non applicant) and unknown persons and according to the FIR, marriage of the son of the informant was performed with the co-accused Nahid about two and half years before and after marriage his wife and her family members tortured his son and very often they insulted him and due to the abetment of his wife and her family members, son of the informant consumed some poisonous substance on 30.12.2022 and died.

5. Learned counsel for the applicant submitted that applicant was not named in the FIR and during investigation very casually on the basis of application moved by the informant dated 17.10.2023, he has been made accused in the present matter.

6. He further submitted that from the perusal of the application dated 17.10.2023 which has been annexed as annexure-6 to the affidavit it appears that only allegation against the applicant is that he also involved in hatching the conspiracy to abet the deceased

alongwith named accused Nahid, the wife of the deceased and except this, no other allegation was made by the informant in the application dated 17.10.2023.

7. He further submitted that however, subsequently, the story was developed by the prosecution and according to it applicant was having illicit relationship with the wife of the deceased and due to this reason, he conspired in abetting the deceased.

8. He further submitted that except bald allegation, there is nothing on record which can show that applicant anyhow involved in abetting the deceased.

9. He further submitted that bail application of co-accused Nahid, principal accused, the wife of the deceased has already been allowed by the co-ordinate bench of this Court vide order dated 14.3.2023 and copy of bail order has been annexed as annexure-8 to the affidavit.

10. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 14.11.2023.

11. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail but could not dispute the arguments on facts advanced by learned counsel for the applicant.

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

13. Considering the fact that during investigation, applicant was made accused in the present matter and it appears that only allegation against him is that he conspired with principal co-accused Nahid, wife of the deceased and she (co-accused Nahid) has already been released on bail, 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-**Imran**, 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 :- 14.12.2023

Ankita