

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 421 of 2023

Applicant :- Manish Verma

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.

Counsel for Applicant :- Rakesh Kumar Mishra, Mohd. Gulfam Siraj, Shikhar Raj Singh

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard learned counsel for the applicant, Sri Diwakar Singh learned AGA for State and perused record.

2. This application for bail is file by the applicant for bail in case crime No.0047 of 2022 under Section 302 IPC, PS Mohanlalganj, district Lucknow.

3. Learned counsel for the applicant has submitted that the applicant has been falsely implicated. He has submitted that all the witnesses are belonging to same family, therefore, their evidence cannot be relied on. He has submitted that the complainant is not the eyewitness rather, as per the FIR, he was sitting in his house and after hearing noise, he came outside and saw that the deceased was done to death by the applicant. He has submitted that the place of occurrence is different from the house where the complainant was in his room, therefore, he is not eyewitness. He has submitted that deceased was dashed by the monkeys due to which he fell down and received injuries. He has further submitted that wife of the applicant has also reiterated the same fact as has been stated by the complainant.

4. Learned AGA has opposed the bail and has submitted that FIR was lodged promptly by the complainant and he mentioned that his son Ayansh 1 years and two months of age was sleeping in the house, the applicant took away the deceased son Ayansh and heavily pushed down him on the floor due to which he received injuries and died. Learned AGA has invited attention of this Court towards the statement of complainant under Section 161 CrPC in which the complainant has specifically stated that there is enmity between him and the applicant pertaining to property. He has submitted that the applicant is cousin brother born out of wedlock of his father. He has mentioned that his father had married two times and, there was dispute of property between the parties. Learned AGA has submitted that version of FIR, as well as statement Section 161 CrPC of the complainant are supporting the statements of witnesses Sangita Verma, Anuj Kumar and Sunil under Section 161 CrPC and are supporting the prosecution case. Learned AGA has further pointed out that deceased was one year and two months infant child who received following injuries:-

"1. Contusion 12 cm x 12 cm present on top and back of head.

2. Abraded contusion 2 cm x 1 cm present on right side forehead just above right eyebrow.
3. Abraded contusion 6 cm x 4 cm present on front of chest, 3 cm above the right nipple.
4. Contusion 6 cm x 4 cm present on right arm 8 cm below top of right shoulder underlying right humerus bone fractured.
5. Multiple abraded contusion present in area of 10 cm x 6 cm at sacrum. On opening ecchymosis present underneath all opening above mentioned injuries.
6. All skull bones fractured, meninges and brain lacerated subdural hematoma present all over the brain."

The cause of death is the anti-mortem head injuries.

5. Considering the over all facts and circumstances of the case, the argument that the deceased was one year and two months infant and heavily pushed down on the floor and received six injuries, the argument that the complainant and other witnesses have supported the prosecution case and they are the witnesses of the incident, it is a not fit case for bail.

6. The application for bail is rejected. The Trial Court is directed to conclude the trial within one year. without being influenced by the observations made by this Court.

Order Date :- 22.11.2023
Rajneesh JR-PS)