

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 277 of 2023

Applicant :- Qadir

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

Counsel for Applicant :- Amjad Siddiqui, Dilip Kumar Pandey, Somesh Srivastava

Counsel for Opposite Party :- G.A., Mata Prasad Yadav

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Mr. Dilip Kumar Pandey, learned counsel for the accused-applicant, learned A.G.A. for the State as well as Mr. Mata Prasad Yadav, learned counsel for the complainant/informant, and perused the record.

2. This application has been moved by the accused/applicant - **Qadir** for grant of bail in Case Crime No.0201 of 2022, under Sections 304 and 506 IPC lodged at Police Station Amethi, District Amethi, during trial.

3. Learned counsel for the accused-applicant, while pressing the bail application, submits that the applicant has been falsely implicated in this case and, he has not committed any offence, as claimed by the prosecution. It is further submitted that only on the basis of suspicion and apprehension the FIR has been lodged against the applicant. It is further submitted that since the lodging of the FIR the investigating officer has recorded statements of various witnesses, including six *panch* witnesses and, only evidence, which has been given by these witnesses, is with regard to the fact that death of the deceased had occurred on account of impact of train and thereafter the statement of brother of the deceased, namely, Satyam was recorded who has also shown an apprehension and, apart from that, there is no iota of evidence against the applicant and the charge-sheet appears to have been submitted on insufficient material/evidence. It is further submitted that nothing incriminating has been recovered from possession or pointing of the applicant

4. It is next submitted that applicant is languishing in jail in this case since 02.08.2022 and he is not having any previous criminal history. Charge sheet in this case has already been filed and there is no apprehension that after being released on bail he may flee from the course of law or may otherwise misuse the

liberty.

5. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed a heinous offence and, therefore, he is not entitled to be released on bail.

6. Learned counsel for the complainant/informant vehemently opposes the bail plea of the applicant on the ground that the applicant was having affair with the deceased and, in this regard attention of this Court has been drawn towards statement of Manish Agarwal, who is owner of a hotel, who has deposed that on 01.06.2022 and 30.05.2022 the applicant and the deceased had resided in his hotel and to get-rid-of the deceased, the applicant had committed her murder.

7. Perusal of record, in the background of submissions advanced by the learned counsel for the parties, would reveal that the body of the deceased was found on the railway-line on 13.06.2022 and in the inquest report all the *panch* witnesses had opined that death of the deceased has occurred due to train accident. Postmortem report of the deceased would reveal that the deceased had sustained nine injuries of the nature of abrasion, laceration and crush and the body was found divided into two pieces and apart from the apprehension which has been shown by the informant as well as by her son, namely, Satyam there is no iota of evidence against the applicant. The applicant is languishing in jail in this case since 02.08.2022 without any previous criminal antecedents. Charge sheet in this case has also been filed and the presence of the applicant may be secured before the trial court by placing adequate conditions.

8. Keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus **allowed**.

9. Let the accused/applicant - **Qadir**, involved in above-mentioned case, be released on bail on his furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(ii) The applicant shall cooperate in the trial sincerely without

seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

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

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

12. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression on the merits of the case.

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[Mohd. Faiz Alam Khan, J.]

Order Date :- 24.11.2023

MVS/-