

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 5877 of 2023

Applicant :- Harish Agrahari

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

Counsel for Applicant :- Ashutosh Singh, Ashutosh Singh, Hari Prasad Gupta

Counsel for Opposite Party :- G.A., Siddhartha Sinha

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Mr. Ashutosh Singh, learned counsel for the accused-applicant, Mr. Aditya Kumar Singh, Advocate, holding brief of Mr. Siddhartha Sinha, learned counsel for the complainant/informant as well as learned A.G.A. for the State and perused the record.

2. This bail application has been moved by the accused/applicant-**Harish Agrahari** for grant of bail in Case Crime No.475 of 2022, under Sections 120-B, 306, 506 I.P.C., Police Station Goshainganj, District Sultanpur, 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 the F.I.R. of this case has been lodged by father of the deceased against the applicant and other named accused persons alleging therein that one Priti Agrahari had filed a false case of rape against his son, Vikas Agrahari and in that case Vikas Agrahari was confined in prison and the accused persons were demanding rupees ten lakh in lieu of his release from prison and were also intimidating that if Vikas would not solemnize marriage with Priti, they all would be done to death. Other family members of Priti were also stated to be involved in the conspiracy. It is also the case of the prosecution, as narrated in the F.I.R., that feeling humiliated/apprehended by the same, the deceased (Ravi Agrahari) has committed suicide on 14.09.2022 at 01.30 hours and has also written a suicide-note.

4. It is vehemently submitted that the applicant is/was not having any concern with the dispute, which was between Priti Agrahari and Vikas Agrahari. In the F.I.R. lodged by Priti against Vikas Agrahari, a copy of which has been placed and

the charge-sheet filed, after investigation, the applicant is not even shown as a witness and, thus, there was neither any occasion nor any opportunity for the applicant to intimidate the deceased or to make demand of rupee ten lakh and thus these allegations have been carved out without there being any basis. It is further submitted that even if the suicide-note allegedly written by the deceased is believed as it is, no specific role has been assigned to the applicant and the role of intimidation has been assigned to co-accused- Pravesh and against him (Pravesh) charge-sheet has not been filed. It is also submitted that death of the deceased appears to have taken place in suspicious circumstances in his own house. In this regard, the attention of this Court has been drawn towards the postmortem report of the deceased wherein apart from a ligature mark found around his neck, a contusion has also been found on right side of his head and it has been vehemently submitted by the learned counsel appearing of the applicant that this injury has not been explained by the prosecution and it appears that the death of the deceased had occurred otherwise than in circumstances which have been stated in the F.I.R. and the real cause of death has been concealed by the prosecution. It is also submitted that to constitute an offence under Section 306 I.P.C., abetment must be of the magnitude and nature as defined under Section 107 I.P.C. and even if the case of the prosecution is admitted to be a case of abetment, the ingredients of abetment as defined under Section 107 I.P.C. are patently lacking.

5. It is next submitted that identically placed co-accused person of the alleged crime, namely, Shiva Agrahari has been released on bail by this Court vide order dated 20.11.2023 passed in Criminal Misc. Bail Application No.10185 of 2023. The applicant is languishing in jail in this case since 15.06.2023 and he is not having any 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.

6. 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.

7. Mr. Aditya Kumar Singh, Advocate, holding brief of Mr. Siddhartha Sinha, learned counsel for the complainant/informant vehemently opposes the bail plea of the applicant on the ground that the applicant was part & parcel of a conspiracy, which has hatched to extort money from the deceased and in this regard intimidation was also given to the deceased and apprehending/humiliating by the same, he has

committed suicide. It is also stated that the abetment as defined under Section 107 I.P.C. is available in this case and, therefore, having regard to the fact that a young person has committed suicide on account of abetment given by the applicant, the applicant may not be enlarged on bail.

8. Perusal of record, in the background of submissions advanced by the learned counsel for the parties, would reveal that an F.I.R. was lodged by Priti Agrahari against son of informant of the instant F.I.R., namely, Vikas Agrahari under the relevant penal provisions including Section 376 I.P.C. and after investigation, the charge-sheet was also filed therein. Case of the prosecution is that some amount was being asked by the prosecutrix of that case in connivance with other accused persons and he was also threatened and feeling apprehended and humiliated the deceased has committed suicide. The defence of the applicant appears to be that if Vikas Agrahari was being pressurized/humiliated, there was no occasion for his brother-Ravi Agrahari (deceased) to commit suicide as the occasion and opportunity of committing suicide could only be attributed to Vikas Agrahari. The defence of the applicant also appears to be that the name of the applicant has neither been found in the F.I.R. as a witness nor in the charge-sheet and, therefore, no abetment as defined under Section 107 I.P.C. may be attributed to him and even if the suicide-note allegedly written by the deceased is believed as it is, the same could only be attributed to co-accused- Pravesh, who allegedly had intimidated the deceased and the charge-sheet has not been filed against him (Pravesh). Admittedly, the death of the deceased has occurred in his house as is evident from the inquest report and apart from a ligature mark, a contusion has also been found on his head and certain question-marks have been placed by the learned counsel for the applicant on the prosecution with regard to not explaining the injury found on the head of the deceased. Disputed questions of fact may better be left to be appreciated by the trial court after an opportunity to lead evidence is provided to the parties. Identically placed co-accused person of the alleged crime, namely, Shiva Agrahari has been released on bail by this Court. However, having regard to all the facts and circumstances of the case and also keeping in view the submissions made by the learned counsel for the applicant, a case for bail appears to have been made out in favour of the applicant. The applicant is languishing in jail in this case since 15.06.2023 without any criminal history. 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.

9. 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**.

10. Let the accused/applicant-**Harish Agrahari**, 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.

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

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

13. 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.

Order Date :- 28.11.2023

Anupam S/-