

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6471 of 2023

Applicant :- Vaibhav Shukla

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

Counsel for Applicant :- Rudra Pratap Singh, Mohd. Azam Khan

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard learned counsel for the accused/applicant 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- **Vaibhav Shukla** for grant of bail, in Case Crime No. 1043 of 2022, under Section 306 IPC, Police Station Kotwali Sadar, District Kheri, during trial.
3. Learned counsel for the accused-applicant while pressing the second bail application submits that the accused-applicant has falsely been implicated in the instant case and he has not committed any offence as claimed by the prosecution.
4. It is further submitted that the FIR of this case has been lodged by the father of the deceased alleging therein that the applicant, who was employed in the company where the deceased was also employed, was teasing her and on 29.8.2022, a phone call was received on the mobile phone of the younger sister of the deceased namely, Kumari Nandini from the mobile of Vaibhav Shukla (applicant) who had asked Kumari Nandini to take the welfare of her sister as she (deceased) was not picking his phone, on which Kumari Nandini had called her room partner namely, Rinki and at about 6.30 pm, it was Rinki who told Kumari Nandini that the deceased had committed suicide by hanging. It is alleged that Vaibhav Shukla (applicant) had abetted the suicide committed by the deceased.
5. Highlighting the above facts, it is vehemently submitted on behalf of the applicant that the FIR has been lodged by the father of the deceased only on the basis of suspicion and apprehension and even if the statement of the father of the deceased as well as sister of the deceased are believed on their face, no culpability may be attached to the applicant as there was no abetment stated by them.

6. Elaborating further, it is submitted that the facts which have been stated by the witness Kumari Nandini are to the tune that at 11.00 am, the applicant had made a phone call and asked her (Nandini) to take the welfare of her sister as she (deceased) was not attending his phone calls and the same by any stretch of imagination may not amount to abetment, as defined under Section 107 of the Indian Penal Code.

7. It is also submitted that apart from recording the statement of the prosecution witnesses during the course of investigation, the four prosecution witnesses namely, the father of the deceased namely, Kripal Singh; Vinay Pratap Singh, the employee of the company; Rinki, the sister of the deceased and Abhishek have been testified before the trial court as PW-1, PW-2, PW-3 and PW-4, respectively and they all have become 'hostile' and have categorically stated that no abetment was given ever by the applicant to the deceased.

8. While drawing attention of this Court towards a marriage certificate placed at page No. 65 of the paper book as well as the statement of Kumari Rinki recorded before the trial court as PW-3, it is vehemently submitted that the deceased had solemnized marriage with the applicant and this fact was not told by deceased to her parents and it appears that she was under depression and being in that state of mind, had committed suicide and there is no evidence with regard to providing any abetment by the applicant.

9. It is further submitted that the applicant is in jail in this case since 10.10.2022 and he is not having any criminal antecedents. Four prosecution witnesses have been testified before the trial court and they all have not supported the version of the prosecution. Thus, there is substantial change in circumstances since the rejection of the first bail application of the applicant. Charge sheet in the matter has already been filed and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty.

10. Learned A.G.A., on the other hand, submits that since the applicant after solemnizing marriage with the deceased was also intending to marry some other girl, the deceased had committed suicide which is a clear abetment, as defined under Section 107 of the Indian Penal Code. Thus, the applicant is not entitled for any relief.

11. Having heard learned counsel for the parties and having perused the record, it is evident that the first bail application of the applicant was rejected on 30.11.2022. Thereafter, four

prosecution witnesses appear to have been testified before trial court and none of them have supported the version of the prosecution and they all have been declared hostile. They have also disowned their statements recorded under Section 161 CrPC given to the investigating officer. The star witness namely, Rinki who was admittedly living with the deceased had categorically stated that the deceased had solemnized marriage with the applicant and she was not aware whether this fact was revealed by deceased to her parents and it is in this background, it is submitted by learned counsel for the applicant that there is probability that the deceased may be in some kind of depression and in that state of mind, had committed suicide. The post-mortem report of the deceased available on record would reveal that the cause of death has been stated to be asphyxia, as a result of ante mortem hanging. The applicant is in jail in this case since 16.11.2022 without any criminal history. Charge sheet in the matter has already been filed. His presence could be secured before the trial court by placing any adequate conditions.

12. 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 and demerits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is **allowed**.

13. Let the applicant- **Vaibhav Shukla** involved in the aforesaid case be released on bail on 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.

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

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

16. Observations made herein-above are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

Order Date :- 24.11.2023

Shravan