

Court No. - 8

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6789 of 2023

Applicant :- Ashok Kumar Patel @ Nankey

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

Counsel for Applicant :- Kaushal Kishore Tewari

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

2. The present bail application under Section 439 Cr.P.C. has been filed by the applicant seeking bail in FIR No.225 of 2022 under Sections 302 and 201 IPC, Police Station Mandhata, Pratapgarh.

3. The accused-applicant is husband of the deceased. The accused-applicant himself lodged the FIR alleging that his wife, the deceased who was mentally retarded has gone out of the house and her dead body was found on 09.07.2022. During the course of investigation it was found that out that it was the accused-applicant who himself killed his wife and hid the dead body.

4. Post mortem would suggest following antemorem injuries on the body of the deceased:-

"(i) Large cut wound over lower portion of anterior aspect of neck, 2 cm above both clavicles, size 8 x 3 cm deep, wound margins are irregular due to deco. trachea is completely cut and both ends are visible and filled with maggots.

(ii) Skin subcutaneous tissue decomposing hairs easily peeled out, nails are losing abdomen distended, maggots, and present all over body."

5. One independent witness, Gendalal, who is also friend of the accused-applicant in his statement has said that the accused-applicant was perturbed and disturbed because of the mental condition of the deceased and on several occasions he had told the witness that he wants to get rid off with the deceased. After commission of the offence he told the witness that he had removed one biggest problem of his life.

6. All the witnesses of fact have been examined including two witnesses who were shown as witness of last seen of the accused-applicant with the deceased.

7. Considering the facts and circumstances of the case, perusing the record and also considering the nature of allegations, arguments advanced by the learned counsel for the parties and, without expressing any opinion on the merit of the case, I find it to be a fit case for granting bail.

8. Let applicant **Ashok Kumar Patel @ Nankey** be released on bail in the aforesaid case on his furnishing a personal bond and two sureties of the like amount to the satisfaction of the Magistrate/Court concerned, subject to following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

Order Date :- 24.5.2023
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