

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7910 of 2022

Applicant :- Sandeep S/O Rampal

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

Counsel for Applicant :- Shiv Shankar Singh, Ramesh Kumar, Sudhaker Prakash

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard learned counsel for the applicant, Sri Mohd. Asif Khan, learned A.G.A. for the State and perused record.
2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.58 of 2022 under Section 302 IPC, PS Satrikh, district Barabanki.
3. Learned counsel for the applicant has submitted that admittedly, the deceased was married to applicant near about 2002 and the incident took place on 1.2.2022. Father of deceased has lodged FIR making allegation that applicant is drinker and used to beat his daughter and on the date of incident, he had beaten his daughter, therefore, she died.
4. Learned counsel for the applicant has invited attention of this Court towards the post mortem report which indicates that there are three injuries which are on the face of deceased. He has submitted that the injuries are simple in nature and cause of death could not be ascertained. The doctor also could not opine that cause of death is due to anti mortem injuries. Learned counsel for the applicant has submitted that viscera report has come and in the report, it is mentioned that there is no poison found in the viscera. He has submitted that deceased died natural death. He has further submitted that PW-1 father of deceased has been examined before the Trial Court and he has not supported the prosecution case in the cross-examination. In the cross-examination, he has deposed before the Trial Court that he had not gone to the place of occurrence and he was residing at his own home. The information was written by the villager and his signature was obtained. He has further deposed that police did not ask anything about the case, rather, his signature was obtained. He has also denied the site plan.
5. Learned counsel for the applicant further submitted that

similarly, PW-2 brother of deceased has been declared hostile. He has also not supported the prosecution case. PW-3 doctor has been examined and in cross-examination he has stated that three injuries caused on the body of deceased are not sufficient to cause death and he could not ascertain the cause of death. Learned counsel for the applicant has further submitted that the doctor has also not supported the prosecution case because the cause of death is not due to anti mortem injuries received by the deceased. PW-5 son of deceased has also been declared hostile and he has also not supported the prosecution case. Similarly, PW-6 father-in-law has also not supported the prosecution case.

6. Learned counsel for the applicant has submitted that from the prospective of medical report as well as the statement of PW-1, 2, 3, 5 and 6 it is clear that at the moment it cannot be inferred that the applicant was involved in commission of crime. He has submitted that there is no likelihood that trial will be concluded in near future. He has further submitted that the applicant has no criminal history and he is in Jail since 5.2.2022.

7. On the other hand, learned A.G.A. opposed the prayer for bail but could not dispute the aforesaid facts and the fact that the PW-1, 2, 3, 5 and 6 have not supported the prosecution case, the anti mortem injuries are not the reason for cause of death and the viscera report does not indicate that poison is found in the viscera.

8. Considering over all facts and circumstances of the case, the argument that PW-1, 2, 3, 5 and 6 have not supported the prosecution case, the anti mortem injuries are not the reason for cause of death and the viscera report does not indicate that poison is found in the viscera, it is a fit case for bail.

9. Let the applicant, Sandeep be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the 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.

10. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The Trial Court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 1.11.2023
Rajneesh JR-PS)