

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6487 of 2020

Applicant :- Dukhi @ Rajesh Paswan

Opposite Party :- State of U.P.

Counsel for Applicant :- Gyanendra Pathak, Anil Singh, Shesh Ram Verma

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- **Dukhi @ Rajesh Paswan** for grant of bail, in Case Crime No. 1329 of 2019, under Section 302 I.P.C., Police Station Gomti Nagar, District Lucknow, 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.
4. It is further submitted that the case of the prosecution rests on circumstantial evidence and except the recovery of '*chakla*' and 'blood stained clothes' of the applicant on his pointing, there is no other material or evidence available against him which may even remotely connect the applicant with the crime.
5. It is further submitted that the applicant had left the room where he was residing two days before the occurrence and, therefore, he is not in a position to explain the circumstances under which the deceased has been done to death.
6. It is further submitted that it is a case of no motive, therefore, the story, as cooked up by the prosecution could not be believed. The applicant is very poor and is in jail in this case since 10.11.2019 and till now only three prosecution witnesses have been examined before the trial Court and having regard to the pace with which the trial is going on before the trial Court, the same is not expected to conclude in near future.
7. It is next submitted that applicant is not having any criminal history 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.

8. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and he was residing with the deceased and on the fateful day he was found wandering in the market while the dead body of the deceased was lying in the room wherein he was residing with him and so much so 'blood stained pant' and 'blood stained *'chakla'* has been recovered on his pointing and the same has also been verified by the forensic lab containing human blood and, therefore, having regard to the evidence available against the applicant, he is not entitled to be released on bail.

9. Having heard learned counsel for the parties and having perused the record, it is transpired that the case of the prosecution rests on circumstantial evidence. The F.I.R. of the instant case has been lodged by the landlord of the premises wherein the applicant and the deceased were residing. It appears to be an admitted case that the deceased as well as the applicant were residing in the same room and as per the first information report and the statement of the landlord he noticed that the applicant is wandering in the market in the morning, while the dead body of the deceased was seen by him in his room. He (landlord) apprehended that it is the applicant who has committed the offence. On 10.11.2019 a day after the incident the applicant is shown to have been arrested by the police and on his pointing a 'blood stained *chakla*' and his 'blood stained pant' is shown to have been recovered and when the same were sent for forensic examination, 'human blood' has been found on these articles. Thus, the whole case of the prosecution rests on circumstantial evidence but the circumstances which are being placed against the applicant, are not sufficient enough to exercise discretion in his favour.

10. In result, the plea of bail of the applicant- **Dukhi @ Rajesh Paswan is rejected.**

11. However, the applicant is shown to be in jail for the last four years and only three prosecution witnesses have been examined, this Court is of the considered view that the process of adjudication of the guilt of the accused, which is also carrying a presumption of innocence, may not be termed to act as a punishment itself.

12. Thus, the trial Court is directed to conclude the trial within eight months from receipt of a copy of this order and if in this regard the case is required to be listed twice in a week, the trial Court shall do so, so that the same is concluded within the time stipulated by this Court.

13. The Commissioner, Lucknow shall be personally responsible for producing the prosecution witnesses before the trial Court on each and every date of such listing, without fail.

14. A copy of this order be immediately provided to learned A.G.A. for the purpose of communication to the Commissioner Lucknow.

15. A copy of this order be also sent to the Trial Court through the Sessions Judge concerned for strict compliance.

Order Date :- 10.10.2023

Praveen