

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3189 of 2021

Applicant :- Madan

Opposite Party :- State of U.P.

Counsel for Applicant :- Ausaf Ahmad Khan, Laxmi Saran Singh, Neeraj Singh, Raj Priya Srivastava

Counsel for Opposite Party :- G.A., Pradyumn Shukla

Hon'ble Mohd. Faiz Alam Khan, J.

1. The name of Pradyumn Shukla, learned counsel for the complainant/ informant has been printed in the cause list but no one is present on his behalf.
2. Heard learned counsel for the accused/applicant as well as learned counsel for the State and perused the record.
3. This bail application has been moved by the accused/applicant- **Madan** for grant of bail, in Case Crime No. 56 of 2020, under Section 302 IPC, Police Station Fatehpur Chaurasi, District Unnao, during trial.
4. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. The only evidence which is shown against the applicant is his confessional statement as well as the recovery of the dead body and apart from that there is no iota of evidence which may connect the applicant with the crime.
5. It is also submitted that one of the prosecution witness - Phool Singh has deposed against the applicant on the basis of village *partibandi* and his statement cannot be believed and simply on the basis of recovery, the applicant may not be convicted.
6. It is further submitted that the applicant is in jail in this case since 12.03.2020 he is not having any criminal antecedent and only 5 prosecution witnesses has been testified so far and keeping in view the pace with which the trial is going on before the Trial Court, the same is not expected to conclude in near future. The applicant is not having any criminal antecedent.
7. Learned AGA opposes the prayer of the bail of the applicant on the ground that it was on the pointing of the applicant, the dead body of the deceased has been recovered and no satisfactory explanation has been given by the applicant with

regard to the knowledge of the place of the dead body and he has also seen talking with the deceased at the relevant point of time by one of the prosecution witness, namely, Phool Singh and thus, he is not entitled to be released on bail.

8. Having heard learned counsel for the parties and having perused the record, it is transpired that the mother of the informant had gone missing and on the information provided by the witness Phool Singh with regard to the fact that at the relevant point of time the deceased was seen within the vicinity where the deceased was working, the FIR was lodged and a suspicion has been shown that it is the applicant who had committed the crime. On 12.3.2020 the applicant and his son, namely, Mahipal is shown to have been arrested and while in the custody of police, the applicant is stated to have confessed his guilt in terms that he had caught the deceased with bad intention and when she attempted to make an alarm, she was done to death by him. After recording of the disclosure statement, the dead body of the deceased was recovered on the pointing of the applicant from an agricultural field and the postmortem of the deceased would reveal that the cause of death has been ascertained as 'asphyxia' as a result of throttling. Witness Phool Singh in his statement had categorically stated that he had seen the applicant near the place where the deceased was working. Three prosecution witnesses of the fact have been testified before the trial court and they have deposed against the applicant. The case of the prosecution is based on circumstantial evidence. The allegations and counter allegations have been levelled with regard to the circumstances alleged against the applicant.

9. Having regard to all the facts and circumstances of the case and also keeping in view that the dead body of the deceased has been recovered on the pointing of the applicant and the trial also appears to be at a concluding stage, I do not find any good ground to release the applicant on bail and therefore the application for bail moved by the applicant is **rejected**.

10. However, since the applicant is shown to be in jail in this case since 12.03.2020, the trial court is directed to conclude the trial with utmost expedition by fixing the dates in this case not beyond 10 days and all out efforts be made to conclude the trial within six months. If the trial is not concluded within the period stipulated herein before and the applicant is not a privy to the same, he may renew his prayer for bail before this court afresh.

11. A copy of this order be furnished to the trial court through Sessions Judge concerned for strict compliance.

Order Date :- 20.11.2023
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