

Court No. - 8

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8156 of 2023

Applicant :- Rahul

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko. And 4 Others

Counsel for Applicant :- Anurag Singh

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh,J.

1. Heard learned counsel appearing for the accused-applicant and Sri S.N. Goswami, learned A.G.A. for the State.

2. This is third bail application which has been filed seeking bail in FIR No.11 of 2018 under Sections 302, 201, 147, 376/34 IPC, 3/4 POCSO Act, Police Station Hargaon, Sitapur.

3. First bail application has been rejected by this Court vide order dated 11.01.2019 passed in Bail No.5334 of 2018 by following order:-

1. In these applications moved for bail under Section 439 Cr.P.C. the accused-applicants sought their enlargement on bail in Case Crime No.11 of 2018, under Sections 147, 302, 201, 376/34 I.P.C. and Section 3/4 POCSO Act, Police Station Hargaon, District Sitapur.

2. Heard learned counsel for the accused-applicants as well as learned Additional Government Advocate and perused the entire record.

3. Complainant Satish Kumar, son of Ram Lotan gave a written report at Police Station Hargaon, stating therein that on 14th January, 2018 in the morning, when some boys went out to ease themselves, they noticed a sack at Kabirpur Bridge. The sack was taken out and when it was opened, it was found that inside this sack there was a dead-body of 10 years girl. Her mouth was closed by cello tape. Immediately, information was given to the police at Dial 100 Number and a written report was brought to the police station for taking appropriate action in the matter. On the same day, one Devki Nandan gave an oral information at the police station on which Sub-Inspector, Raj Kishore Yadav, the complainant along with police force went to Village Umariya at the culvert of Sharda Sub-Canal. They noticed one sack in the shallow water and when it was taken out then it was found that it had a dead-body of 9 years old girl.

4. Sub-Inspector, Raj Kishore Yadav, received information on R.T. set that one dead-body of a girl has been found at Raksa Bridge. The Sub-Inspector, Raj Kishore Yadav went to the Raksa Bridge where he found that the police force has already reached there.

5. Inquest proceedings were conducted. Two joot sacks, one bag of salt and one bag of small stones were seized and seizure memo was prepared. A case under Section 302/201 I.P.C. was registered. The information was published in newspapers and was shown in news channels and on the basis of said information, sister of father of the deceased girls gave information to the father of the deceased, namely, Praveen alias Sonu. Praveen alias Sonu

reached to the mortuary and recognized the dead-bodies of his daughters. He gave the information that his wife Vibha Pandey got separated from him and for the last three years she was living along with her two deceased daughters and one Naveen Kumar Gupta, with whom she developed illicit relation.

6. During investigation, Naveen Kumar Gupta was interrogated. Naveen Kumar Gupta confessed that he along with other co-accused, who were his friends, murdered Vibha Pandey and her two daughters and they threw the dead-bodies of Vibha Pandey in Sarayan River and two other places from where the dead-bodies of two girls were recovered. Accused Rahul Lodh, during investigation, accepted that he arranged a black colour Xylo Car for disposing of the three dead-bodies.

7. On pointing out of the accused, dead-body of Vibha Pandey was recovered.

8. During investigation on 18th Jan., 2018 Xylo Car bearing Registration No. UP53-AL/2905 along with its driver/owner was recovered and they were arrested.

9. Later on, offence under Sections 147 and 376/34 I.P.C. and Section 3/4 POCSO Act were added.

10. On behalf of the accused-applicants, it is submitted that it is a case of circumstantial evidence and except alleged confessional statement of the accused, there was no evidence to connect the accused with commission of the offence. It is also submitted that the accused-applicants have been falsely implicated and they are in jail since 18.01.2018, 19.01.2018 and 16.01.2018 respectively and, therefore, they should be enlarged on bail.

11. The confessional statement given to the police by accused Naveen Kumar Gupta is on record.

12. In the confessional statement of Naveen Kumar Gupta, it has been stated that Vibha Pandey got married with Praveen Pandey fourteen years before the date of incident. Out of wedlock with Praveen Pandey, deceased Vibha Pandey gave birth to two daughters, namely, Aradhya and Arana, who were aged about 10 years and 9 years at the time of incident. It has further been stated that deceased Vibha Pandey got separated from her husband, Praveen Pandey six years before and she was living with her two daughters at Alam Nagar, Police Station Kotwali, Sitapur. He came into contact of Vibha Pandey three years before the date of incident. He was unmarried and they started living together as husband and wife. However, Vibha Pandey did not stop her relationship with other men and, therefore, he along with other accused, namely, Dilip Sharma, Rahul, Pakaj, Mukesh and Juber in a well-planned conspiracy committed the murder of the three deceased. It was also said that accused Mukesh raped Aradhya, elder daughter of Vibha Pandey, before the daughters were murdered. He brought Vibha Pandey to Sharma Mobile Shop where other accused, named above, were present and they strangled the deceased Vibha Pandey. Thereafter, two daughters were brought there and accused Mukesh committed rape on elder daughter Aradhya and, thereafter, by using Xylo Car, arranged by accused Rahul, the dead-bodies were disposed of.

13. I have considered the submissions made by learned counsel for the parties carefully and the allegations against the accused-applicants.

14. It is a heinous offence in which three persons, including two innocent girls along with their mother, have been brutally killed/murdered and their dead-bodies were disposed of by the accused. One of the accused allegedly committed rape on a minor girl aged about ten years and, thereafter, she and her younger sister were murdered. The gruesome murder of three females would have certainly shocked the society and seeing heinousness of the crime, no leniency can be shown to the accused even though it appears to be a case of circumstantial evidence.

15. In totality of the facts and circumstances of the case, nature of the offence, status of the victim and societal impact of the crime, it would not be appropriate to enlarge the accused-applicants on bail.

16. Accordingly, their prayer for bail is refused and the bail applications are hereby rejected."

4. Second bail application has also been rejected by this court vide order dated 06.06.2022 passed in Criminal Misc. Bail Application No.5765 of 2022 by following order:-

"1. Heard learned counsel for the accused-applicant as well as learned Additional Government Advocate on this second application for bail and gone through the entire record.

2. By means of this application under Section 439 CrPC, the accused-applicant seeks bail in FIR No.011 of 2018, under Sections 147, 302, 201, 376/34 IPC read with Section 3/4 POCSO Act lodged at Police Station Hargaon, District Hardoi.

3. The first bail application of the accused-applicant was rejected by this Court vide detail order dated 11.01.2019 passed in Criminal Misc. Bail Application No.5334 of 2018 along with bail applications of two co-accused.

4. The applicant is one of the accused, who allegedly brutally killed three females, mother and her two minor daughters. The accused-applicant's presence, during commission of offence, and arranging Xylo Car through which dead-bodies were disposed of, disclosed by the main accused, Naveen Gupta, in his confessional statement. Trial has progressed inasmuch 9 witnesses of fact have been examined.

5. Mr. Vaibhav Gupta, learned counsel for the accused-applicant, submits that so far 9 witnesses of fact have been examined in the Court and have not alleged any role played by the accused-applicant in commission of the offence.

6. However, considering heinousness of the offence and the fact that the accused-applicant is one of the 5 accused, who are alleged to have committed gruesome murder of three persons, mother and her two daughters, this Court does not find it a fit case for enlarging the accused-applicant on bail at this stage.

7. Rejected.

8. However, learned Trial Court should proceed with the trial proceedings and conclude the trial at an early date, preferably within one year.

9. Let a copy of this order be transmitted to the concerned Trial Court by the Registry for compliance forthwith."

5. Against the order rejecting the second bail application, the accused-applicant approached the Supreme Court by filing S.L.P. (Criminal) Diary No.9282 of 2023, However, the Supreme Court also rejected the S.L.P. (Criminal) vide order dated 06.06.2022.

6. Looking at the heinousness of the offence, involvement of the

accused-applicant and *prima facie* evidence available against him, I do not find any change circumstance to enlarge the accused-applicant on bail at this stage. This bail application is ***rejected***.

(Dinesh Kumar Singh, J.)

Order Date :- 4.7.2023
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