

Court No. - 8

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7866 of 2023

Applicant :- Itwari

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

Counsel for Applicant :- Santosh Kumar Kanaujia

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh,J.

1. Heard learned counsel for the accused-applicant as well as Sri Manish Vikram Singh Chauhan, learned A.G.A. and perused the record.

2. This is the second bail application. First bail application got rejected by this Court vide order dated 29.2.2022 passed in Criminal Mic. Bail Application No.6621 of 2020.

3. The present application under Section 439 Cr.P.C. has been filed seeking bail in FIR/Case Crime No.506 of 2017, under Sections 376 and 302 IPC and Section 3/4 POCSO Act, Police Station Dhaurahara, District Lakhimpur Kheri.

4. This Court while rejecting the first bail application of the accused-applicant, passed the following order:-

“1. Heard and gone through the entire record.

2. By means of this application under Section 439 CrPC, the accused-applicant seeks bail in FIR No.0506 of 2017, under Sections 376 and 302 IPC read with Section 3/4 POCSO Act lodged at Police Station Dhaurahra, District Lakhimpur Kheri.

3. As per allegation in the FIR, on 25.07.2017, at around 4 p.m., the deceased, aged around 16 years, went out of her house to defecate and she did not return thereafter; despite search, her whereabouts could not be known on the same day; on 26.07.20217, a missing report was lodged at the police station; on 27.07.2017 body of the deceased was recovered from agricultural field of the accused-applicant; there is an eye-witness of last-seen; postmortem report of the deceased discloses following antemortem injuries:-

- "1. Multiple abrasion in an area of 15 x 15cm over front of chest each measuring 1 x 1/2cm;*
- 2. Multiple abrasion in an area of 15 x 10cm over front & both side of neck;*
- 3. Multiple abrasion 10cm x 6cm over left buttock each measuring 1 x 1/2cm;*
- 4. LW 1cm x 1/2cm over front of left knee;*
- 5. Abrasion over Rt ankle;*
- 6. Multiple abrasion in an area of 18cm x 15cm over front of both thigh & perineum region, longest one is 1cm x 1/2cm smallest 1/2 x 1/2cm; and*
- 7. Ligature mark 25cm x 1cm on upper part of neck situated above thyroid cartilages below larynx & chin running above with upward turning line of mandible. Mark is 6cm below chin 6cm below left ear & 2cm below Rt. ear. Interrupted on Rt. side of neck just behind Rt. ear mark is grooved, base pale, hard, lathery & parchment white margin brown on dissection subcutaneous under ligature mark, dried, white and glistening."*
- 4. There is also antemortem injury on private part of the deceased. Trial is going on where two witnesses of fact have been examined, who, according to learned counsel for the accused-applicant, have not supported the prosecution case.*
- 5. Be that as it may, this Court does not find it a fit case for bail at this stage. Hence, the bail plea is refused and the application is rejected. However, learned trial Court is directed to expedite the trial and conclude the same, preferably within a period of six months from the date certified copy of this order is submitted/served on behalf of the accused-applicant."*
- 5. There is no changed circumstance, which warrant this Court to enlarge the accused-applicant on bail.*
- 6. Bail application is accordingly **rejected**.*
- 7. However, the trial court is directed to conclude the trial within a period of four months as the accused-applicant has been in jail since 20.3.2018.*

Order Date :- 10.7.2023

Rao/-