

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10558 of 2023

Applicant :- Ram Dheeraj

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lucknow

Counsel for Applicant :- Diwakar Pratap Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Sri Diwakar Pratap Pandey, learned counsel for the applicant and learned A.G.A. for the State.

2. The present bail application has been filed by the applicant seeking bail in Case Crime No. 121 of 2023, under sections 323, 506, 306 I.P.C. P.S.- Jarwalroad, District- Bahraich.

3. As per the version in the F.I.R., the father of the deceased along with his two sons Alpi and Niranjan went for work on a brick kiln four months prior to the incident. His son Niranjan (the deceased) was not able to do his job because of some injury on his hands and therefore, he requested his uncle Ram Dheeraj to let him return to his house for a few days to recover and take rest. However, annoyed over such request, he physically assaulted, abused and threatened him. On 27.04.2023, when the deceased was returning his house, his uncle and three others physically assaulted and threatened him by saying that he will be done to death if he refused to work and then because of physical atrocities committed by them, Niranjan committed suicide by hanging himself, in the night of 28.04.2023.

4. Learned counsel for the applicant submits that the F.I.R. has been lodged after consultation with false allegations. The real fact is that the deceased was not well since before the incident. To support this argument, my attention has been drawn to an application given by the first informant a day before lodging of F.I.R., in which he informed the police that his son has committed suicide and he imputed no allegations against the accused. The deceased was suffering from illness that he attempted suicide earlier as well.

5. In reply to the argument given from the prosecution side that the postmortem report showed some external injuries, it is argued that he got injured before the incident as is disclosed from the F.I.R. itself. And no injury was caused by the applicant. The applicant is in jail since 21.06.2023 i.e for about five months. He has no criminal history and there is no chance of his absconding from legal process and that he shall abide by the conditions imposed by this Court.

6. The bail application is opposed by the learned A.G.A.

7. I went through all the material on record, considered the contents of the F.I.R., the statements given by the material witnesses under section 161 Cr.P.C., the medical evidence and the attending facts and circumstances

including the fact that applicant is in custody since last about five months and that there is no certainty that how long will it take for trial to conclude, I find it a fit case for bail, the bail application is allowed.

8. Let applicant - **Ram Dheeraj** be released on bail in the aforesaid Case Crime Number on his furnishing personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not temper with evidence/witnesses.

(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) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) framing of charge and (ii) recording of statement under Section 313 Cr.P.C. without exception.

9. 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 :- 16.11.2023

Sumit Kumar