

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10874 of 2023

Applicant :- Tribhuwan Rawat

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. U.P. Civil Sectt. Lko.

Counsel for Applicant :- Vijay Prakash Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Rejoinder affidavit filed by learned counsel for the applicant is taken on record.
2. Heard Shri Vijay Prakash Srivastava, learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.
3. This bail application has been moved by the accused/applicant- **Tribhuwan Rawat** for grant of bail, in Case Crime No. 0191/2023, under Sections 323, 306 I.P.C., Police Station- Haidergarh, District- Barabanki, during trial.
4. 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.
5. It is further submitted that a simple incident of *maar-peet* has been given the colour of abetment of commission of suicide by the deceased while the necessary ingredients as enumerated under Section 306 of the I.P.C. is not present in this case.
6. Elaborating further, it is submitted that in the first information report, it has been alleged that the applicant and co-accused Ram Bux Rawat has assaulted the deceased in the night and the deceased had also sustained some injuries, however, he was highly intoxicated and was taken for medical examination. However, after treatment, he was kept in police custody and no information of the same was given to the informant and on the next day, he came to know that the son of the informant has been done to death.
7. It is vehemently submitted that admittedly at the time of the incident, one Umesh Kumar was with the deceased and he in

detail has stated the whole occurrence in his statement recorded under Section 161 Cr.P.C and the statement of this witness would reveal that the deceased was highly intoxicated (under the influence of *alcohol*) and was afraid of applicant and co-accused and when he was taken to police station, he was escorted by two police personnels for the purpose of his medical examination and when the police personnels had taken him (deceased) to the hospital, the deceased jumped off the motorcycle of the police personnels and fled away and on the next day, his dead body has been found hanging with an branch of a Neem tree at the outskirts of village Kaudhiya.

8. Highlighting the above facts, it is vehemently submitted on behalf of the applicant that to constitute an offence under Section 306 I.P.C., there has to be a nexus/ relation between the alleged act or omission of the accused persons with the commission of suicide by the deceased and the same connection/ abetment should be of the magnitude as defined under Section 107 of the Indian Penal Code, which is completely missing in this case and it appears that under the influence of *alcohol*, the deceased had committed suicide without there being any cogent reasons for the same.

9. It is also submitted that the applicant is in jail in this case since 13.06.2023. From before the involvement of the applicant in this case, he was not having any criminal history and one case pertaining to Sections 323, 504 and 506 I.P.C has been slapped against the applicant in connection with this case, however, in that case, the bail application has still not been moved. There is no apprehension that after being released on bail the applicant may flee from the course of law or may otherwise misuse the liberty.

10. 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 having regard to the material/evidence available against the applicant, he is not entitled to be released on bail, but could not controvert the other factual submissions made by learned counsel for the applicant.

11. Having heard learned counsel for the parties and having perused the record, it is reflected that the deceased had committed suicide by hanging herself which is evident by the post mortem report of the deceased where a ligature mark has been found around the neck of the deceased along with many other minor injuries pertaining to which the case of the prosecution is that in the night before the finding of the body of the deceased, a fight had taken place between the deceased and the applicant & co-accused, namely, Ram Bux Rawat. The

admitted case of the prosecution as is reflected from the statement of the star witness of this crime, namely, Umesh Kumar Rawat appears to be that the deceased was apprehending that he may be further assaulted by the applicant and co-accused persons and when he was being taken in police escort for medical examination, he jumped off the motorcycle of the police personnels and fled away and his dead body was found next morning hanging from a branch of the tree. The defence of the prosecution appears to be that even if the case of the prosecution is admitted as it is, the necessary ingredients required for attraction of Section 306 I.P.C are patently missing in this case as there is no abetment as defined under Section 107 of the Indian Penal Code and also that the deceased had committed suicide under the influence of the *alcohol*. The Applicant is in jail in this case since 13.06.2023 and criminal history of one case has been adequately explained. The presence of the applicant could be secured before the trial court by placing adequate conditions.

12. Having regard to the overall facts and circumstances of the case and keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus **allowed**.

13. Let the accused/applicant- **Tribhuwan Rawat** involved in above-mentioned case, be released on bail on his furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

14. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

15. Identity, status and residence proof of the applicant and sureties be verified by the Court concerned before the bonds are accepted.

16. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression of this Court on the merits of the case.

Order Date :- 27.10.2023

Gurpreet Singh