

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11057 of 2023

Applicant :- Vikas Sahu

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

Counsel for Applicant :- Sujeet Kumar Sahu

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Heard Shri Sujeet Kumar Sahu, learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.

2. This bail application has been moved by the accused/applicant - **Vikas Sahu** for grant of bail, in Case Crime No.052 of 2022, under Section 302 I.P.C., Police Station Baba Bazar, District Ayodhya/Faizabad, during trial.

3. 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.

4. It is further submitted that the applicant was not named in the F.I.R. and his complicity in the crime has surfaced in the statement of one witness namely Poonam, who has stated that at the relevant point of time, she was seen in a compromising position with the applicant by the deceased and on account of this, the deceased has been done to death by the applicant. A hammer and jacket is also shown to have been recovered on the pointing of the applicant, which has also been sent for forensic examination.

5. It is also submitted that recovery of hammer as well as confessional statement of the applicant could not be believed on the score that confessional statement of accused is not admissible by virtue of the bar contained under Section 26 of the Indian Evidence Act and secondly the recovery of hammer could also not be believed as there is no independent public witness of the same. The applicant is real brother of the deceased.

6. It is next submitted that the applicant is in jail in this case

since 07.01.2023 without any criminal history and the charge sheet in this case has already been filed and there is no apprehension that after being released on bail he may flee from the course of law or may otherwise misuse the liberty.

7. 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

8. Having heard learned counsel for the parties and having perused the record, it is evident that the applicant is the real brother of the deceased and he was not named in the F.I.R., however, during the course of investigation, investigating officer has recorded the statement of one witness in the name of Poonam, who in categorical terms has stated that she was in a relationship with the applicant for the last two years and they used to meet at lonely places and at the relevant point of time on the fateful day, when she and the applicant were in a compromising position, they were seen by the deceased on which the applicant asked her to go to home and also that he will tackle the situation and thereafter the applicant had made a phone call to Poonam informing that he had settled the matter and one hammer allegedly used in the commission of the crime has also been recovered on the pointing of the applicant along with a jacket, which was worn by the applicant at the time of commission of crime and was also found bloodstained. The hammer as well as bloodstained jacket is shown to have been sent for forensic examination, the report of which is still awaited.

9. Thus having regard to all the facts and circumstances of this case and evidence available on record against the applicant, I do not find any good ground to release the applicant on bail. Thus the bail application moved on behalf of applicant - **Vikas Sahu** is hereby **rejected**.

10. However, the trial court is directed to make all endeavours to conclude the trial at the earliest keeping in view the provisions contained under Section 309 Cr.P.C. without granting unnecessary adjournments to either party.

11. It is provided that the applicant may approach this Court again after the testimony of all the witness of facts is recorded before the trial court.

12. 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.

13. Office is directed to immediately send a copy of the instant order to the trial court concerned through the Sessions Judge concerned for strict compliance.

Order Date :- 17.11.2023

Anupam S/-