

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11286 of 2023

Applicant :- Amardeep Nirmal

Opposite Party :- State Of U.P. Thru. Its Addl. Chief Secy. Home Deptt., Lucknow

Counsel for Applicant :- Pravin Kumar Verma, Vivek Kumar Verma

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard 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- **Amardeep Nirmal** for grant of bail, in Case Crime No.201/2023, under sections 302, 201 IPC, Police Station Haidergarh, District Barabanki, during trial.
3. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. The motive which has been assigned for commission of offence in the First Information Report as well as in the statements of the prosecution witnesses is to the tune that the husband of the deceased had executed a Will Deed / Gift Deed in favour of father of the applicant and the deceased was annoyed by the same and was regularly quarreling with the applicant and his father as well as with their other family members and to get rid of her the applicant and other co-accused persons have committed the murder.
4. Highlighting the above facts, it is vehemently submitted that motive which has been assigned to the applicant and other co-accused persons who are stated to have committed the murder of the deceased is patently insufficient on the score that the Will Deed or Gift Deed, as the case may be was executed by Bhawani Prasad (husband of the deceased) and the same could only be rescinded, or cancelled or challenged by Bhawani Prasad alone and the deceased was never in a position to make any objection with regard to Sale Deed / Gift Deed and therefore even if the case of the prosecution is taken on its face the applicant may not be the beneficiary of the death of the deceased.

5. It is further submitted that even if the case of the prosecution is believed including the motive which have been assigned, apart from suspicion and apprehension there is no iota of evidence which may connect the applicant with the commission of the crime.

6. It is further submitted that recovery of a nylon rope is also shown on the pointing of the applicant and the rope alone could not associate applicant with the crime.

7. It is further submitted that the applicant is in jail in this case since 20.6.2023 and he is not having any criminal history. Charge sheet in this case has already been filed and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty.

8. Learned A.G.A. on the other hand submits that the applicant is accused of committing an heinous offence as the deceased was quarreling with them on the pretext of a false Will Deed/ Gift Deed has been executed by the father of the applicant and other co-accused persons.

10. Having heard learned counsel for the parties and having perused the record, it is evident that the bone of the contention between the father of the applicant and deceased is shown to be the residential plot and house owned by the husband of the deceased, namely, Bhawani Prasad. Though it is mentioned in the statements of the prosecution witnesses that a Will Deed was executed by Bhawani Prasad in favour of his brother, namely, Ram Lakhan (father of the applicant) but a copy of the Deed placed as Annexure No.5 to the Bail Application would sufficiently project that it is 'Gift Deed' executed by Bhawani Prasad in favour of Ram Lakhan with regard to a residential plot / house, the boundaries of which have also been given in the Deed. It is also reflected this Gift Deed has been allegedly executed by Bhawani Prasad in favour of Ram Lakhan, thus there appears some force in submissions made on behalf of the applicant that the applicant may not be the beneficiary of the death of the deceased as the Gift Deed was executed by Bhawani Prasad and not by the deceased in favour of the father of the applicant, namely, Ram Lakhan. The complicity of the applicant has surfaced in the statement of the prosecution witnesses who have shown an apprehension that commission of crime has been done by the applicant and other co-accused persons and it also appears to be an admitted situation that there is no direct evidence of the commission of crime and the case of the prosecution rests on the circumstantial evidence. The recovery of rope has also been attributed on the pointing of

the applicant. The applicant is in jail in this case since 20.6.2023 and he is not having any criminal history. Charge sheet in this case has already been submitted. His presence may be secured before the trial court by placing adequate conditions.

11. 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 and demerits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is **allowed**.

12. Let the applicant- **Amardeep Nirmal** involved in the aforesaid case be released on bail on 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.

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

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

15. Observations made herein-above are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

Order Date :- 20.11.2023

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