

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12225 of 2023

Applicant :- Vijay Kumar Alias Vijaypal

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

Counsel for Applicant :- Dinesh Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Learned A.G.A. informs that he has procured complete instructions in the matter including up-to-date case diary.
2. Heard Shri Dinesh Kumar, 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- **Vijay Kumar Alias Vijaypal** for grant of bail, in Case Crime No 0191 of 2023, under Section 306 I.P.C., Police Station Baghauli, District Hardoi, during trial.
4. Learned counsel for the accused-applicant while pressing the bail application submits that applicant has been falsely implicated in this case. He is the father-in-law of the deceased, who is alleged to have committed suicide.
5. While drawing the attention of this court towards the first information report lodged by the informant (father of the deceased) on 31.05.2023 at Police Station Baghauli, District Hardoi, it is submitted that the marriage of the daughter of the applicant was solemnized with the deceased about a year before lodging of the F.I.R. and on 25.05.2023 at about 5:00 pm. the deceased had gone to his 'sasural' to bring back his wife to her matrimonial home, however, the applicant and other co-accused persons raised a quarrel and refused to send the wife of the deceased with him and at that point of time the deceased Akash had sent a whatsapp message to his brother Sandeep with regard to the fact that the accused persons have instigated him to die, on which the informant had called one Motilal son of Fakeere resident of the village of the 'sasural' of the deceased, on which Motilal had replied that the matter shall be sorted out in the morning, however, in the next morning the deceased was found hanging from a branch of tree, as he had committed suicide. As per the postmortem report of the deceased, a 'ligature mark' and three injuries of the nature of abrasion, contusion and lacerated wound has been found and the cause of death has been ascertained as 'asphyxia', as a result of 'antemortem hanging'.

6. Highlighting the above facts, it is vehemently submitted that it has come in the first information report as well as in the statement of the informant that he after the happening of a quarrel between the deceased and accused persons, he had called one Motilal son of Fakeere and the investigating officer has recorded the statement of Motilal, who in categorical terms has denied about any quarrel or 'marpeet' taken place at the relevant point of time. Thus, the allegations of assaulting the deceased or instigating him to commit suicide has been carved out subsequently.

7. It is further submitted that to constitute an offence under Section 306 I.P.C., the act or omission allegedly committed by an accused person must be of the nature, as defined under Section 107 of the Indian Penal Code. However, matrimonial strained relations or refusal of a spouse to accompany the husband or wife may not be termed abetment, as defined under Section 107 of the Indian Penal Code.

8. It is further submitted that even if refusal to accompany the deceased by his wife and her family members is termed as abetment even then the deceased was having a cooling period of many hours, as he appears to have committed suicide in the intervening night of 25-26.05.2023. Thus, the applicant may not be assumed to have abetted the suicide committed by the deceased, moreso, when there is no specific allegations against him, as specific allegations have been levelled against co-accuse Pramod.

9. It is next submitted that applicant is detained in prison in this case since 17.06.2023 and he is not having any criminal history. 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.

10. Learned A.G.A. on the other hand submits that it is on account of the abetment given by the accused persons including the applicant, the deceased has committed suicide and, therefore, the applicant is not entitled to be released on bail.

11. Having heard learned counsel for the parties and having perused the record, it is transpired that on the relevant day the deceased had gone to the house of his in-laws in order to bring back his wife who was living in her matrimonial home due to some strained relations with the deceased. Allegation of 'abetting' the suicide committed by the deceased in the intervening night of 25-26.05.2023 has been levelled and in this regard a whatsapp message sent by the deceased to his brother

namely Sandeep has been highlighted, wherein general allegations have been levelled with regard to asking the deceased to die. However, no specific or overt act has been assigned to the instant applicant, who is the father-in-law of the deceased. The statement of one Motilal is also significant, who had categorically denied that any scuffle or '*marpeet*' had taken place and the matter, according to him, was not serious and could be sorted out in the next morning. Applicant is in jail in this case since 17.06.2023 without any criminal antecedents. Charge sheet in this case has also been filed and the presence of the applicant could be secured before the trial court by placing adequate conditions.

12. 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- **Vijay Kumar Alias Vijaypal** 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 on the merits of the case.

Order Date :- 13.10.2023/Praveen