

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13067 of 2023

Applicant :- Rajendra

Opposite Party :- State Of Up Thru Prin Secy Home Civil Sectt Lko

Counsel for Applicant :- Pawan Kumar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Learned AGA informs that he has procured complete instructions in the matter inducing upto date case diary and charge sheet in this case has already been submitted.
2. Heard Shri Pawan Kumar Sharma, 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- **Rajendra** for grant of bail, in Case Crime No.198 of 2023, under Section 306 I.P.C., Police Station Fakharpur, District Bahraich, 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 the F.I.R. of the incident has been lodged by the brother of the deceased namely Sushil Kumar Verma against the Varun Kumar Gaur on 02.06.2023 at Police Station Fakharpur, District Bahraich alleging therein that the named accused, who is the Principal of the school, wherein the deceased was employed as teacher, was attempting to sexually exploit her and also making some video of her viral and apprehended by the same, the deceased had committed suicide on 02.06.2023 at about 11:00 am.
6. It is vehemently submitted that the FIR of the instant case has been lodged only on account of suspicion and apprehension and by concealing correct facts. Elaborating further it is submitted that during the course of investigation the Investigating Officer apart from recording the statement of family members of the deceased had also recorded the

statement of three independent witnesses, namely, Naveen Kumar, Jageshwar Prasad and Anant Ram and they in one voice has stated that the deceased and applicant were in a relationship and the applicant was pressurizing the deceased to solemnize marriage with him and the family members of the deceased were not agree for their marriage and being annoyed by the same and being mentally disturbed the deceased has committed suicide.

7. It is further submitted that on account of the fact that the marriage of the deceased was not solemnized with the applicant the deceased has committed suicide and had the family members of the deceased have agreed to her marriage with applicant, the life of the deceased could have been saved.

8. It is further submitted that co-accused, namely Varun Kumar Gaur against whom allegations have been levelled in the First Information Report as well as in the statements of the informant, recorded under Section 161 Cr.P.C. were levelled, has been granted bail by this Court, vide order dated 25.09.2023 passed in Crl. Misc. Bail Application No. 10391 of 2023.

9. It is also submitted that to attract the penal offence as defined under Section 306 IPC the abetment must be of the magnitude of the nature as mentioned in Section 106 of the Indian Penal Code which is lacking in this case and admittedly the suicide has been committed by the deceased at her house.

10. It is further submitted that the applicant is in jail in this case since 18.06.2023 and he is not having any criminal antecedent 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.

11. Learned A.G.A. on the other hand opposes the prayer of bail of the applicant and has submitted that only on pressure applied by the applicant the deceased has committed suicide, therefore he is not entitled to be released on bail.

12. Having heard learned counsel for the parties and having perused the record, it is evident that in the First Information Report all the allegations have been levelled against co-accused Varun Kumar Gaur, the applicant was even not named therein. However, on account of statement of the family members of the deceased the name of the applicant had surfaced. There are three independent witnesses, who have stated about relationship of the applicant with the deceased and also that the applicant was pressurizing the deceased to solemnize marriage with her,

however, family members of the deceased were not in favour of her marriage with the applicant. Thus, the deceased who was annoyed due to non willingness of the family members of the deceased, has taken extreme step of suicide. Identically placed co-accused Varun Kumar has been granted bail by this Court. The role of the instant applicant is much lesser than co-accused Varun Kumar. The applicant is in jail in this case since 18.6.2023 and he is not having any criminal antecedent. Charge sheet in this case has already been submitted. His presence may be secured before the trial court by placing adequate conditions.

13. 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**.

14. Let the accused/applicant- **Rajendra** 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.

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

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

17. 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 :- 6.11.2023

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