

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13074 of 2023

Applicant :- Suraj Pal

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

Counsel for Applicant :- O.P. Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard Shri O.P. Tiwari, learned counsel for the applicant, Shri MVS Chauhan, learned AGA for the State and perused the record.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.99 of 2023, under Section 306 I.P.C. Police Station Sohramau, District Unnao.

3. Learned counsel for the applicant submitted that the applicant was married with the deceased prior to 15 years. The deceased died on 04.06.2023 and inquest was conducted on 04.06.2023 itself in which complainant was also present but no FIR was lodged but after 27 days, father of the deceased lodged FIR on 01.07.2023. In the FIR, it is mentioned by the complainant that there was partition between the brothers of the applicant and the deceased was not happy with the partition of land as such dispute has arose between the deceased and the applicant and his family members.

4. Learned counsel submitted that FIR does not indicate that applicant instigated the deceased in any manner to commit suicide. The statement of complainant was recorded under Section 161 Cr.P.C. in which he has mentioned that at the place of incident, there was altercation between the applicant and the deceased and he told her to go and commit suicide due to that reason, the deceased committed suicide. Learned counsel has submitted that even if the statement under Section 161 Cr.P.C. of the complainant is taken on the face value, it will not help the prosecution side. He has submitted that there is no active act of the applicant in instigation and the deceased committed suicide by hanging herself.

5. Learned counsel submitted that there is no external or internal injury found on the person of the deceased except ligature mark which was formed due to suicide. Learned counsel has relied upon Paras 6, 8 and 11 of the judgment of the Supreme Court in the case of *Sanju @ Sanjay Singh Sengar vs. State of M.P.* (2002) 5 SCC 371. The applicant

has no criminal history and is languishing in jail since 20.09.2023.

6. On the other hand, learned AGA opposed the prayer for bail and submitted that deceased committed suicide because of the instigation done by the applicant therefore, bail of the applicant is liable to be rejected.

7. Considering the over all facts and circumstances of the case and looking to the argument that the deceased committed suicide by hanging; argument that there is no act of instigation on the part of the applicant; argument that there is inordinate delay in lodging the FIR; argument that complainant was present in the inquest proceedings and no prompt FIR was lodged, therefore, I find it to be a fit case for bail.

8. Let the applicant **Suraj Pal** be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

9. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an

expression on the merits of the case. The Trial Court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 6.11.2023/Pks