

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2556 of 2023

Applicant :- Vinod Kumar

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt.
Lko. And Another

Counsel for Applicant :- Afrin Bano

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Afrin Bano, the learned counsel for the applicant as well as Sri Anant Pratap Singh, the learned Additional Government Advocate-I appearing on behalf of the State, Sri Ajay Pratap Singh, the learned counsel for the informant and perused the records.

2. The instant application has been filed by the applicant seeking anticipatory bail in F.I.R. bearing Case Crime No. 298 of 2023, under Sections 147, 306 IPC, Police Station Inayat Nagar, District Ayodhya.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 06.07.2023 against five persons, including the applicant, stating that one son of the informant Satyam Tiwari @ Sintu Tiwari had been taken into custody by the police at about 04:00 p.m. on 05.07.2023 and his other son Shivam Tiwari @ Ramu Tiwari was beaten up and hanged afterwards.

4. The inquest report mentions that the feet of the body were touching the ground, there were some injuries on the body and prima facie it appears that the dead body had been hanged, after the victim having been killed. However, the post mortem examination report mentions death due to asphyxia as a result of ante mortem hanging. The post mortem examination report also mentions numerous other injuries on the dead body, besides ligature mark around his neck.

5. The learned counsel for the applicant has submitted that the Investigating officer has recorded statement of the doctors who had conducted post mortem examination, both of whom have stated that the deceased had hanged himself.

6. The learned counsel for the informant has drawn attention of the Court to the order dated 31.10.2023 passed by the

Additional Sessions Judge, Faizabad rejecting the applicant's anticipatory bail application wherein it is recorded that the doctors, who had conducted the post mortem examination report had appeared before the Sessions Court and after examining post mortem report, he stated before the court that this was not a case of hanging by the victim and the doctor had not given any such statement to the Investigating Officer. The doctor stated that he had told the Investigating Officer that the victim had died because of asphyxia due to hanging.

7. In the affidavit filed in support of the application it has been contended that the applicant is innocent, he has falsely been implicated in the present case and that he has no criminal history.

8. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

9. Having considered the aforesaid facts and circumstances of the case, I am of the view that the applicant does not deserve to be granted discretion of this court by granting pre-arrest bail to him.

10. The anticipatory bail application is ***rejected*** accordingly. However, in case the applicant files an application for grant of bail, the same shall be considered and decided on its merits, without being influenced by any observations made in this order.

Order Date :- 8.11.2023

Pradeep/-