

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13415 of 2023

Applicant :- Jogendra Singh Chauhan @ Rangoli

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

Counsel for Applicant :- Bhoopal Singh, Pawan Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard learned counsel for the applicant, Sri Vishvas Sarasvat, learned A.G.A. for the State and perused record.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in FIR No.533 of 2022 under Section 323, 306 IPC, PS Mohanlalganj, district Lucknow.

3. Learned counsel for the applicant has submitted that FIR has been lodged by the brother of the deceased in which he has levelled allegation that co-accused Jyoti Singh was married with his deceased younger brother and relation between his brother and co-accused Jyoti Singh was not good and on the date of incident i.e., 30.10.2022 at 8.00 O' Clock, the co-accused Jyoti Singh had come along with the applicant in the house and thereafter, his brother was beaten by the applicant and co-accused Jyoti Singh. The FIR further indicates that the complainant has made allegation that the deceased was hanged by the applicant and co-accused Jyoti Singh.

4. Learned counsel for the applicant has submitted that as per post mortem report, the cause of death is due to asphyxia as a result of anti mortem hanging. There are four injuries of contusion and one abraded injury which were not the cause of death. It has been further submitted that two children i.e., son and daughter of co-accused Jyoti Singh were present and they have categorically stated that co-accused Jyoti Singh had left the house of deceased in the night itself. Thereafter, considering all the aspect, the chargesheet was filed under Section 306 IPC.

5. Learned counsel for the applicant has further submitted that at this stage co-accused Jyoti Singh who may be main accused, has been granted bail by this Court by a detailed order in Crl. Misc. Bail Application No.8254 of 2023 on 17.8.2023. He has

further submitted that there is no ingredient of Section 107 IPC in the present case. He has further submitted that the applicant has no criminal history and he is in Jail since 2.11.2022.

6. On the other hand, learned A.G.A. though opposed the bail but could not dispute the fact that the co-accused Jyoti Singh has been granted bail.

7. Considering over all facts and circumstances of the case, the argument that co-accused Jyoti Singh having similar role has been granted bail and argument that there is no ingredient of Section 107 IPC, it is a fit case for bail.

8. Let the applicant, Jogendra Singh Chauhan @ Rangoli 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 :- 11.12.2023
Rajneesh JR-PS)