

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13531 of 2023

Applicant :- Lavkush Chauhan @ Chhotu

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

Counsel for Applicant :- Vikas Pandey, Arvind .Ku. Mishra

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 upto date case diary of the case. Thus, it appears that on the basis of material placed on record, the bail plea of the applicant may be adjudicated.
2. Heard 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- **Lavkush Chauhan alias Chhotu** for grant of bail in Case Crime No.0169 of 2023, under Section 302 IPC, later on converted under Section 306 IPC, lodged at Police Station Ghungher, District Barabanki, 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 FIR of the instant case has been lodged by the father of the deceased against the applicant and other co-accused persons, alleging therein that the husband of the deceased as well as the applicant and other family members used to commit cruelty with the deceased and also intimidate her and on 20.07.2023 he got information that his daughter has been done to death by the accused persons on which he came to the matrimonial home of his daughter and found her dead. The postmortem report of the deceased would reveal that two ligature marks have been found around her neck and cause of death has been ascertained as asphyxia as a result of antemortem hanging. It is vehemently submitted that though

the FIR was lodged under Section 302 IPC, however, after a thorough investigation, the allegation could only be found under Section 306 IPC and the informant admittedly was not the eye-witness of the incident. Elaborating further, it is submitted that the investigating officer during the course of investigation has recorded the statements of many witnesses and the incident which had occurred at the relevant day has been narrated by these witnesses to the tune that the son of the deceased had poured some ash (*rakh*) in the pot of milk and it was objected by the applicant and on this a quarrel between the applicant and the deceased had occurred. Prior to this quarrel, a quarrel, between the deceased and her husband, had already occurred on the ground of cooking the food. Mother-in-law of the deceased is also shown to have sided the applicant and, thereafter the deceased appears to have committed suicide. In this regard, statement of sister-in-law (*Bhabhi*) of the applicant, namely Badaki has been highlighted who has narrated the incident in depth, saying that after the quarrel had been subsided, she has gone to the field and about 11 a.m. she got information that the deceased has committed suicide. According to her, the quarrel had taken place at about 7 a.m. Highlighting this, it is submitted that to establish an offence under Section 306 IPC, there has to be a direct nexus between the alleged act or omission of the accused and the commission of the suicide by the deceased and in this case even the cooling period was available to the deceased as the quarrel had taken place at about 7 a.m. and the suicide has been committed at about 11 a.m., thus, the element of any relation with any act of the applicant regarding commission of the suicide is patently lacking in this case. The applicant is brother-in-law (*Devar*) of the deceased. It is further submitted that the applicant is languishing in jail in this case since 28.03.2022 and he is not having any previous criminal history 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.

6. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that it is on account of instigation/abetment given by the applicant the deceased has committed suicide and, therefore, he is not entitled to be released on bail, more so, when he is the brother-in-law (*Devar*) of the deceased.

7. Having heard learned counsel for the parties and having perused the record, it is evident that allegation of raising a quarrel with the deceased and also of giving abetment for commission of the suicide, the commission of suicide by the deceased has been alleged against the applicant. Various submissions have been raised on behalf of the applicant by referring to the statements of various witnesses in order to show that there is no direct link or connection in the commission of suicide by the deceased with any act or omission of the applicant. It is also submitted that having quarrel at about 7 a.m. and commission of suicide by the deceased at about 11 a.m. on the same day is itself sufficient to demonstrate that the deceased was having a cooling period to calm-down her emotions. It is also revealed that on the same day in the morning the deceased had also quarreled with her husband on cooking of food. The applicant is languishing in jail in this case since 28.03.2022 without any previous criminal antecedents and the presence of the applicant may be secured before the trial court by placing adequate conditions.

8. 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**.

9. Let the accused/applicant-**Lavkush Chauhan alias Chhotu**, 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.

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

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

12. 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.

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[Mohd. Faiz Alam Khan, J.]

Order Date :- 9.11.2023

MVS/-