

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14663 of 2023

Applicant :- Lavkush

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

Counsel for Applicant :- Vimal Kishor Singh

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Supplementary affidavit filed by learned counsel for applicant is taken on record.

2. Heard Shri Vimal Kishor Singh, learned counsel for the applicant as well as Shri Arun Kumar Verma, learned A.G.A. for the State and perused the record.

3. This bail application has been filed seeking release of the accused/applicant **Lavkush** on bail, who is involved in Case Crime No. 344 of 2023 under Section 306 I.P.C., Police Station- Ram Sanehi Ghat, District Barabanki.

4. Learned counsel for the applicant submitted that the applicant is an innocent person and falsely implicated in the present case. He further submitted that brother of the deceased lodged F.I.R. mentioning that the marriage of his sister was solemnized with the applicant 13 years ago and four children were born out of the wedlock. He further submitted that as per the prosecution case, applicant was having extra-marital relationship with one Sanju, due to which, his wife/sister of complainant went into depression and committed suicide by hanging herself. He further submitted that detailed investigation was conducted by the Investigating Officer and Final Report was submitted in favour of Sanju, who was also named in the F.I.R.

5. Learned counsel for the applicant further submitted that the deceased committed suicide by hanging herself and in the post-mortem report, no injury was found on the body of the deceased except for the ligature mark which was caused due to hanging. He further drew attention of this Court on the statement of villagers, namely, Ram Lakhan, Guru Prasad, Jagdish Purnmasi, Tilak Ram and Pankaj Mishra who have categorically stated that Sanju, who was named in the F.I.R., was involved in the marriage of daughter of her sister with brother of Ramdev (complainant) due to that reason, Ramdev (complainant) was annoyed, as a result, F.I.R. in question was lodged. He further stated that criminal history of the applicant has been explained in para 3 of the supplementary affidavit filed today. He further submitted that the applicant has no

concern with the alleged crime and he is languishing in jail since 05.09.2023, therefore, he is entitled for bail.

6. On the other hand, learned A.G.A for the State has opposed the prayer for bail of the applicant.

7. Considering the facts and circumstances of the case, after perusing the record and also considering the nature of allegations, arguments advanced by the learned counsel for the parties, the argument that there is no direct or clinching evidence to show that the applicant was involved in the commission of alleged crime, the argument that no ingredient of Section 107 I.P.C. is made out in the present case, the argument that the Final Report has been submitted in favour of co-accused Sanju, therefore, I find it to be a fit case for grant of bail.

8. Accordingly, the bail application is **allowed.**

9. Let the accused/applicant **Lavkush** involved in above-mentioned case be released on bail on his furnishing a personal bond with two sureties each in the like amount to the satisfaction of the court concerned subject to 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 her 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.

10. 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 :- 15.12.2023

DiVYa