

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 15240 of 2023

Applicant :- Jairam Kori

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

Counsel for Applicant :- Abhishek Pandey, Baljit Pandey, Krishna Dutt Tripathi

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 up-to-date case diary and charge sheet has also been submitted.
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- **Jairam Kori** for grant of bail, in Case Crime No. 0479 of 2007, under Sections 498-A, 304-B I.P.C. and Section 3/4 D.P. Act, Police Station Inayat Nagar, District Faizabad/Ayodhya, during trial.
4. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. Applicant is the father-in-law of the deceased, who appears to have committed suicide on 05.07.2007 while her marriage with the son of the applicant was solemnized on 09.10.2005. However, since the marriage of the deceased with the son of the applicant, the applicant was not having any concern with their affairs and was living separately in the same house.
5. It is further submitted that the deceased was a patient of 'bipolar mental disturbance' and was regularly subjected to fits and it appears that during that state of fit she has committed suicide and the injuries which have been found on the person of the deceased may only be attributed to the abnormal act of the deceased while she was under the state of fits.
6. It is vehemently submitted that since the applicant was living separately in the same house, he would not be obliged to explain the circumstances under which the deceased has been done to death or has committed suicide, as the same could only

be explained by the husband of the deceased who was living with the deceased at that point of time and the commission of suicide by the deceased is fortified by the conclusion drawn by the doctor at the time of postmortem that cause of death of the deceased is 'asphyxia' as a result of 'antemortem hanging'. Therefore, the death of the deceased may not be related with the injuries sustained by her.

7. It is further submitted that the first information report could only be lodged by moving an application under Section 156(3) Cr.P.C. with inordinate delay and the allegations stated therein have been carved out with the help of a legal professional. However, after thorough investigation 'final report/closure report' was submitted and it was only on a protest petition moved by the informant/complainant, the Court has passed an order for further investigation and without there being any additional material collected by the investigating officer, charge sheet has been submitted on the basis of insufficient material.

8. It is vehemently submitted that general demand of a 'gold chain' and 'motorcycle' has been alleged against all the accused persons named in the F.I.R., however, in presence of the husband of the deceased, the applicant may not be the beneficiary of the same. It is further submitted that the complainant/mother of the deceased in her statement recorded under Section 161 Cr.P.C. has changed the version frequently and it seems that the real state of affairs has not been stated by her.

9. It is next submitted that applicant is aged about 60 years and is detained in prison in this case since 12.06.2023 without any criminal history. Identically placed co-accused person, namely, Rajkumari (Mother-in-law of the deceased) has been granted bail by a co-ordinate Bench of this Court, vide order dated 08.12.2023 passed in Criminal Misc. Bail Application No. 14487 of 2023. Charge sheet in this case has already been filed 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.

10. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and, therefore, he is not entitled to be released on bail.

11. Having heard learned counsel for the parties and having perused the record, it is reflected that applicant is the father-in-law of the deceased. The marriage of the deceased with the son of the applicant was solemnized on 09.10.2005. She appears to

have committed suicide on 05.07.2007 by hanging herself as a 'ligature mark' has been found around her neck as well as some other injuries. However, the cause of death has been ascertained 'asphyxia' as a result of 'antemortem hanging'. The F.I.R. could only be lodged by moving an application under Section 156(3) Cr.P.C. Initially after thorough investigation 'closure report/final report' was filed and it was on a protest petition moved by the complainant/informant, the order for further investigation was passed. The defence of the applicant appears to be that on the same set of evidence on the basis of which 'final report' was submitted, the investigating officer has submitted charge sheet without collecting any additional evidence and, therefore, charge sheet has been submitted on insufficient material. Identically placed co-accused person, namely, Rajkumari (Mother-in-law of the deceased) has been granted bail by a co-ordinate Bench of this Court. Applicant is in jail in this case since 12.06.2023 without any criminal antecedents and the presence of the applicant could be secured before the trial court by placing adequate conditions.

12. 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**.

13. Let the accused/applicant- **Jairam Kori** 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.

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

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

16. 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.

Order Date :- 22.12.2023

Praveen