

Sohan vs State Of U.P. on 3 March, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:29773

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 17894 of 2024

Applicant :- Sohan

Opposite Party :- State of U.P.

Counsel for Applicant :- Diksha Verma, Swati Agrawal Srivastava

Counsel for Opposite Party :- G.A., Jamil Ahamad Azmi

Hon'ble Sameer Jain, J.

1. Heard Ms. Swati Agrawal Srivastava, learned counsel for the applicant, Sri Vijay Kumar, learned A.G.A. for the State-respondent and Sri Jamil Ahamad Azmi, learned counsel for the informant.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No.38 of 2024, under Sections 302, 201, 506 I.P.C., Police Station- Gaurabadshahpur, District-Jaunpur, during pendency of the trial in the court below.

3. FIR of the present case was lodged on 21.02.2024 at 18:15 hrs. and according to the FIR, daughter of the informant aged about 28 years developed relationship with the applicant and thereafter she often wandered alongwith him and one day informant received information that applicant has taken his daughter to Delhi and she was last seen alongwith applicant by his brother-in-law Vijay Bahadur. It is further mentioned in the FIR that on 21.11.2023 last time informant had a conversation with his daughter and thereafter his mobile phone was switched off and in the meantime applicant informed his son that daughter of the informant is not alongwith him and she had gone somewhere and on 11.12.2023 his dead-body was recovered from a well. It is further mentioned in the FIR that

applicant after committing her murder, concealed her dead-body in the well.

4. Learned counsel for the applicant submits on the basis of false allegation, applicant has been made accused in the present matter and it is a case of circumstantial evidence and except suspicion, it appears, there is no cogent evidence against the applicant on record.

5. She further submits that however, as per the prosecution, deceased was last seen alongwith applicant by witness Vijay Bahadur but the statement of witness Vijay Bahadur does not appear to be convincing.

6. She further submits that however, as per the informant on 11.12.2023 the decomposed dead-body of his daughter was recovered from a well but there is no cogent evidence on record, which could even suggest that actually alleged recovered dead-body was of the daughter of the informant.

7. She further submits that as dead-body was in a very bad condition, therefore, it reflects, it was not possible to identify it.

8. She further submits that for identification of the dead-body, the blood samples of the informant and his wife were tried to match with the tissues of the dead-body but from the DNA Report, which has been filed by the State alongwith compliance affidavit dated 04.10.2024, it reflects, the blood samples of informant and his wife could not be matched with the tissues of the highly decomposed recovered dead-body and therefore, it cannot be said that the alleged recovered dead-body was actually of the daughter of the informant.

9. She further submits that however, as per allegation when the applicant was arrested then he confessed his guilt and on his pointing out the mobile phone of the deceased was recovered but neither applicant ever confessed his guilt before anyone including police nor on his pointing out any mobile phone of the deceased was recovered.

10. She further submits that even merely on the basis of recovery of the mobile phone of the deceased on the pointing out of the applicant, it cannot be said that applicant committed the murder of the daughter of the informant.

11. She further submits that applicant is having no criminal history and he is in jail in the present matter since 18.02.2024 i.e. for last more than one year.

12. Per contra, learned A.G.A. as well as learned counsel for the informant opposed the prayer for bail and submit that there is cogent evidence that applicant was having friendship with the deceased and brother-in-law of the informant Vijay Bahadur witnessed the applicant alongwith the deceased but they fairly conceded from the statement of the witness Vijay Bahadur, it could not be reflected when he witnessed the applicant alongwith the deceased.

13. They further could not dispute the fact that the alleged recovered dead-body was in highly decomposed state and from the DNA Report, it could not be reflected that the alleged recovered

dead-body was of the daughter of the informant however, they vehemently submits that on the pointing out of the applicant mobile phone of the deceased was recovered, therefore, it cannot be said that he is innocent.

14. I have heard learned counsel for the parties and perused the record of the case.

15. It is a case of circumstantial evidence and it reflects as applicant was having friendship with the daughter of the informant, therefore, he has been made accused in the present matter by the informant. Further, however, it appears, witness Vijay Bahadur, the brother-in-law of the informant tried to give evidence of last seen against the applicant but from his statement recorded during investigation, which was produced by learned A.G.A. during the course of argument, it reflects, the evidence of last seen given by him appears to be vague as no date and time has been mentioned by him when he witnessed the applicant alongwith the deceased.

16. Further, as per the prosecution, except above evidence of last seen, there is also evidence that when applicant was arrested then he confessed his guilt and on his pointing out mobile phone of the deceased was recovered but this Court finds merit in the argument advanced by learned counsel for the applicant that merely on the basis of such recovery, at this stage, it is hard to believe that applicant involved in commission of the present crime.

17. Further, record also suggests that the alleged recovered dead-body was in highly decomposed state and it was not possible to identify the same and however for identification of the dead-body, blood samples of the informant and his wife were tried to match with the tissues of the alleged recovered dead-body but from the DNA Report, which has been filed by the State through compliance affidavit, it reflects their blood samples could not be matched with the tissues of the dead-body, therefore, till date precisely it cannot be said that the alleged recovered dead-body was of the daughter of the informant.

18. Further, applicant is having no criminal history and he is in jail in the present matter since 18.02.2024 i.e. for last more than one year.

19. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

20. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is allowed.

21. Let the applicant- Sohan be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

22. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

23. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 3.3.2025 Zafar