

Amit Kumar vs State Of U.P. on 31 January, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:14767

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 962 of 2024

Applicant :- Amit Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Gaurav Tiwari,Pawnesh Tiwari,Rohit Pandey,Yogesh Kumar Singh

Counsel for Opposite Party :- G.A.

with

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13721 of 2024

Applicant :- Arvind Kumar Bind

Opposite Party :- State of U.P.

Counsel for Applicant :- Pawnesh Tiwari,Yogesh Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. As both the bail applications arise from the same FIR therefore, both are being disposed of by common order.
2. Rejoinder affidavit filed by applicant Amit is taken on record.
3. Heard Sri Pawnesh Tiwari, learned counsel for the applicants and Sri S.B. Singh, learned AGA for the State.
4. The instant bail application has been filed seeking release of the applicants on bail in Case Crime No.478 of 2023, under Sections 302, 201 IPC, Police Station Handia, District Prayagraj during pendency of the trial.
5. FIR of the present case was lodged on 16.08.2023 against applicants and according to the FIR during investigation of case crime no.143 of 2022 informant who was investigating officer of that case came to know that applicants who were brother and father of the deceased after committing her murder threw her dead body in a well.
6. Learned counsel for the applicants submits that initially a FIR was lodged with regard to missing of one girl Shashikala at case crime no.143 of 2022 and during investigation a decomposed dead body was recovered but subsequently it was revealed that Shashikala is still alive and actually recovered dead body was of one Khushboo, the daughter of applicant Arvind and sister of applicant Amit and during investigation, Investigating Officer of case crime no.143 of 2022 which was lodged with regard to one Shashikala came to know that applicants after committing the murder of Khushboo threw her dead body but entire allegations levelled against the applicants are totally false and they were neither having occasion to commit murder of the Khushboo nor they were having any motive to commit her murder. He further submits, even there is no cogent evidence against applicants on record as alleged in the FIR.
7. He further submitted that during post mortem the cause of death of deceased could not be ascertained and viscera was preserved and now viscera report has been received which is on record which suggest that no poison was found and the same has been filed along with rejoinder affidavit dated 14.12.2024 and therefore, there is no evidence that deceased Khushboo was murdered.
8. He further submits that even FIR of the present case was lodged after one year.
9. He further submits that actually deceased Khushboo had gone somewhere from her house and did not return and subsequently being her close relatives applicants have been made accused in the present matter after one year.
10. He further submits, applicants are not having any criminal history and in the present matter they are in jail since 20.06.2023 i.e. for last more than one and half year.
11. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

13. Applicants are brother and father of the deceased and as per allegation they after committing her murder threw her dead-body but it reflects that FIR of the present case was lodged after a year when during investigation in another case Investigating Officer came to know that applicants committed the murder of the deceased. Further, it appears, there is no cogent evidence against applicants.

14. Further, however, it reflects that applicants being close relatives of the deceased neither even lodged FIR nor at the earliest they moved any missing application but from the postmortem report it reflects that cause of death of deceased could not be ascertained and her viscera was preserved and now viscera report is on record which has been filed by the applicant along with the rejoinder affidavit and from its perusal it reflects that no poison was found therefore this court finds merit in the argument advanced by learned counsel for the applicants that it is not a case of murder and therefore implication of applicants for offence under Section 302, 201 IPC is bad.

15. Further, applicants are not having any criminal history and they are in jail since 20.06.2023 i.e. for last more than one and half year.

16. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicants are entitled to be released on bail.

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

18. Let the applicants - Arvind Kumar Bind and Amit Kumar 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 applicants shall appear before the trial court on the dates fixed, unless their personal presence is exempted.

(ii) The applicants 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 applicants shall not indulge in any criminal and anti-social activity.

19. 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 applicants.

20. 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 :- 31.1.2025 Neeraj