

Court No. - 43

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35168 of 2022

Applicant :- Rajesh Mishra

Opposite Party :- State of U.P.

Counsel for Applicant :- Anjani Kumar Rai, Ashok Kumar Rai, Sr. Advocate

Counsel for Opposite Party :- G.A.

Hon'ble Ashwani Kumar Mishra, J.

Heard learned counsel for the applicant and learned AGA for the State and perused the record.

Applicant has been implicated in Case Crime No.806 of 2021 initially under Section 384, 504 IPC read with Section 67 of the Information Technology Act, 2000, wherein the allegation was that the applicant had created a fake ID of informant's wife and had uploaded obscene photographs of her and when the applicant was asked to remove those posts he hurled abuses and also demanded Rs.2 lacs. It was alleged that a friend of informant also tried the applicant to remove posts but to no avail. It is also alleged that on 2.9.2021 the informant's wife on account of such harassment tried to commit suicide.

Learned Senior Counsel for the applicant submits that though the allegation was with regard to attempt to commit suicide in the FIR but offences under Section 306 read with Section 511 IPC were not included in the FIR originally lodged. The applicant was enlarged on bail by the trial court. Subsequently, during the course of treatment the informant's wife died. Section 306 IPC has thus been added and as the bail sought in the subsequently added section has been denied, the applicant is before this Court. Learned Senior Counsel further submits that none of the ingredients of offence under Section 306 IPC are made out and once the applicant has been enlarged on bail by the trial court in the same FIR, the subsequent addition of offence under Section 306 IPC would not justify the applicant's arrest as that would amount to the applicant being subjected to double jeopardy. It is also submitted that implication of applicant is wholly false.

Learned AGA, on the other hand, points out that mere fact that Sections 306/511 IPC were not added in the FIR would not be a ground to grant bail to the applicant, particularly as the offence under Section 306 IPC has been added only after death of the informant's wife. He further submits that this is a serious case in

which the informant's wife was harassed and blackmailed, which forced her to commit suicide.

Having heard respective submissions advanced, as also considering the facts of the present case, from a perusal whereof it is apparent that there are allegations against the applicant of harassing the deceased by blackmailing her and uploading her obscene photographs, which lead to the deceased committing suicide. Although bail has been granted to the applicant in Case Crime No.806 of 2021, under Section 384, 504 IPC and Section 67 of the Information Technology Act, 2000, Police Station Surajpur, District Gautam Buddh Nagar but neither any bail has been granted under Sections 306/511 IPC nor those sections were initially invoked and in view of the fact that pursuant to suicide on account of aforesaid reasons, the deceased has ultimately died; without further commenting upon merits of the matter, this Court is of the view that applicant is not entitled to grant of bail. The bail application is, accordingly, rejected.

In the facts of the case, however, the court concerned is directed to expedite the trial and conclude it within a year.

Order Date :- 2.11.2022

Anil