

SC 619/2021
STATE Vs. ARUN KUMAR @ AALU
(Ashwani Kumar @ Ashu)
FIR No.129 /2021
PS Bharat Nagar
U/s 302/201/34 IPC

12.12.2023

Present: Sh. Sanjay Jindal, Ld. Addl. Public Prosecutor for the State.
Sh. Sidhanth Mor and Sh. Rohit Antil, Ld. counsels for the applicant alongwith applicant.

This application U/s 439 Cr.P.C. has been moved seeking for bail of applicant Ashwani Kumar @ Ashu.

Reply filed. Copy supplied.

Ld. Counsel has submitted that no similar application of the applicant is pending before any other court.

Since the applicant has moved the application for regular bail, he is taken into deemed custody.

During course of arguments, Ld. Counsel has submitted that the present case FIR was registered on the statement of complainant Bimla Devi wherein she had stated that applicant had caught hold of deceased Neelam and co-accused Ashwani gave repeated knife blows on her body. Deceased had suffered injuries on her shoulder as well as on left middle arm besides on left lateral chest. It is argued that the injuries found on body of the deceased could not have been caused without inflicting injuries upon the applicant who had allegedly caught hold of the deceased. Ld. Counsel has strongly argued that story of the prosecution is not convincing at the face of it.

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Further submitted that the prosecution has concocted very flimsy motive for the alleged murder that deceased had illicit relations with Vishal, her distant cousin and family of the accused was against the said relationship.

Ld. Counsel has further argued that three witnesses including eye witness Bimla have already been examined and she has not supported the case of the prosecution. Ld. Counsel has also submitted that PW Bimla Devi had subsequently given written letter to the concerned SHO that her signatures were obtained on the blank papers and thereafter, the complaint against the applicant was manipulated on the same.

Further submitted that PW3 Ms. Premwati and PW4 Suraj have also not supported the case of prosecution. Last application was dismissed as one of the witness Vishal had remained to be examined. Now, Vishal has also been examined. Further, no material witness is remaining, therefore, keeping the applicant in custody shall not serve any purpose.

Ld. Counsel for the applicant / accused has also relied upon the following judgments :

1. ***Sumer Singh Vs. State, 2008 I AD (DELHI) 16,***
2. ***Abdul Rehman Vs. State of Himachal Pradesh Cr. MP (M) No.1103/20, decided on 31.07.2020.***

The bail application is strongly opposed by the Ld. Addl. PP for the state. Ld. Addl. PP has submitted that PW Bimla Devi was residing with the deceased and therefore, she is the natural witness of this case. The present case FIR was lodged on

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a written complaint given by the complainant. However, in her court statement, she stepped back from her statement because the accused persons are her real sons. Ld. Addl. PP has submitted that the said witness must have been won over by the defence due to aforesaid close relationship. Ld Addl. PP has next argued that although PW Vishal has denied his relations with the deceased but he can be clearly seen in the marriage photographs with the deceased. These photographs are clearly showing that relationship of the deceased with Vishal was the motive of murder but Vishal has been won over.

Ld. Addl. PP has also submitted that deceased was murdered at her parental home and the complaint was made by mother of the accused and the complainant. There is no theory which can suggest the involvement of any other person or reason for the murder.

Arguments heard.

The present case was registered on a complaint lodged by complainant Bimla Devi. She has already been examined, but she has not supported the case of prosecution. Although, she has not satisfactorily explained the reasons for giving the initial complaint but it would not be appropriate to enter into the argument of truthfulness or falsity of her statement at this stage. That observation has to be reserved till conclusion of the trial. Further, all the remaining material witnesses have also been examined, but they have also not deposed anything against the accused. Witnesses remaining to be examined are

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formal in nature and there is not apprehension of any threat to them. Moreover, applicant / accused is on interim bail for last about three months and there is no allegation against him for violating any condition of bail.

In view of the above, this Court does not see any reason to decline the bail to the applicant. Accordingly, applicant / accused Ashwani Kumar @ Ashu is granted regular bail subject to furnishing personal bond in the sum of Rs.35000/- with one surety of like amount, subject to the same terms and conditions as imposed at the time of granting interim bail.

The application stands disposed of accordingly.

**(BABRU BHAN)
ASJ-03 (NORTH-WEST)
ROHINI COURTS
DELHI/12.12.2023**