

Reserved on 15.03.2022

Delivered on 04.04.2022

Court No. - 80

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 18555 of 2021

Applicant :- Muraj @ Muraj Rajbhar

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashok Kumar Singh, Manish Kumar Pandey

Counsel for Opposite Party :- G.A., Mithilesh Kumar Gupta

Hon'ble Sanjay Kumar Singh, J.

1. Heard learned counsel for the applicant, learned Additional Government Advocate for the State of U.P., Shri Mithilesh Kumar Gupta, learned counsel for the first informant and perused the record.

2. By means of this application under Section 439 of Cr.P.C., applicant Muraj Rajbhar, who is involved in Case Crime No. 30 of 2021, under section 306 IPC, Police Station Saidpur, District- Ghazipur, seeks enlargement on bail during the pendency of trial.

3. As per prosecution case, in brief, complainant who is uncle of the deceased lodged first information report on 6.2.2021 regarding an incident which took place on 5.2.2021 under section 306 IPC against the applicant alleging *inter-alia* that on 5.2.2021, applicant called and talked to his niece from

When his *bhabhi* and other persons of the village went to the house of the applicant to ask about the incident, he misbehaved them, because of this his niece died. Her dead body is lying in hospital.

4. It is contended by learned counsel for the applicant that there is delay in lodging F.I.R., in which it is not mentioned that how the deceased died and she reached to the hospital. It is next submitted that as per allegation in F.I.R., applicant slapped the deceased but no injury was found on her body. Applicant has been falsely implicated due to enmity. The statement of Neha who is younger sister of the deceased is not reliable. Deceased died in her house due to bite by a poisonous animal. Relying on the judgment of the Apex Court in the case of Gurucharan Singh v. State of Punjab AIR 2020 SUPREME COURT 4714, it is contended that there was no mens-rea in the mind of applicant. Lastly, it is submitted by the counsel for the applicant that there is no chance of the applicant fleeing away from the judicial process or tampering with the prosecution evidence. The applicant is languishing in jail since 10.2.2021 and in case, the applicant is released on bail, he will not misuse the liberty of bail and cooperate with the trial.

5. Per contra, learned A.G.A. for the State as well as learned counsel for the informant opposed the prayer for bail of the applicant by contending that investigating officer during

that between 3.1.2021 to 5.2.2021, applicant has called the deceased 247 times and also sent 19 SMSs from his mobile number 9628805221 to the mobile number 9833216076 of the deceased. Much emphasis has been given on the statement of Neha (younger sister of the deceased) by contending *inter-alia* that in fact applicant loved the deceased one sided and he used to say her that if you are not mine, then you will not be allowed to belong to anyone. I will defame you so much that you will not be able to show your face anywhere. Applicant used to mount pressure upon the deceased to run away and get married. The deceased on account of harassment of the applicant feels herself humiliated among her family members, friends and in the society, therefore committed suicide by consuming poisonous substance. As per post mortem report of the deceased, immediate cause of death could not be ascertained therefore viscera was preserved. Viscera report has been filed by the learned A.G.A by means of short counter affidavit which indicates that Aluminum Phosphide poison has been found in viscera. Innocence of the applicant cannot be ad-judged at pre-trial stage. Bail application of the applicant is liable to be rejected.

6. In summation learned counsel for the applicant submits that in CDR, some out going calls are also shown from the mobile of the deceased.

7. Here it would be apposite to mention the statement of

हमारी बहन रेशमा को गांव के ही लड़का मुराज राजभर पुत्र पप्पू राजभर अक्सर घर गांव में यह कहकर तंग करता था कि रेशमा तुम्हे मैं चाहता हूँ तुमसे प्यार करता हूँ मेरी बहन उसकी बात सुनकर डपट देती थी। इस तरह अक्सर वह रेशमा को परेशान करता था बहन घर की इज्जत के कारण घर वालो को उसकी बात संकोच मे नही बताती थी। मुझसे कभी कभार उसकी हरकत एवं गलत बातों को बताती थी कभी कभी वह मेरे घर में माता पिता के न रहने पर आ जाता था दिनांक 5.2.2021 को समय करीब 02 बजे से 03 बजे के बीच मेरे घर के मोबाइल नं० 9833216776 पर मुराज राजभर ने अपने मोबाइल नं० 9628805221 से फोन करके बहन रेशमा से मेरे सामने बातचीत किया उसने कोई बात बोला होगा जिसे सुनते ही मेरी बहन फोन पर ही उसे झिड़कते हुए फटकार लगायी तो मुराज राजभर गुस्से में तमतमाता हुआ सीधे मेरे घर आया वह बहन रेशमा को एक थप्पड़ मारते हुए कहा कि तुम्हे हम गांव भर में इतना बदनाम कर देंगे कि तुम किसी को मुँह दिखाने लायक नहीं रहोगी तुम्हारा जीवन बर्बाद करके ही छोड़ेगे यदि तुम मेरी नहीं बन सकी तो किसी अन्य का भी नहीं बनने दूंगा। मुराज राजभर मेरी बहन से एकतरफा प्यार करता था जिसे रेशमा से शादी का दबाव देता था तथा अक्सर बहन से कहता था कि तुम घर से भागकर मेरे साथ शादी करलो मेरी बहन अपने घर की इज्जत की दोहाई देते हुए उससे गिड़गिड़ाती थी कि मेरी तथा मेरे घर वालों की इज्जत मिट्टी में न मिलाओ मुझे पढ़ लिखकर अपना भविष्य बनाना है। दिनांक 05.02.2021 को घटना मुराज राजभर के व्यवहार से बहन रेशमा आहत होकर मूरज के उत्पीड़न से कोई जहरीला पदार्थ खाकर अपनी जान दे दी। मेरी बहन को मूरज इतना तंग हैरान परेशान किया कि वह अपनी इहलीला ही समाप्त कर ली जिसके लिये मूरज ही दोषी है। इस तरह घटना का चश्मदीद साक्ष्य देते हुए अपना बयान दर्ज करायी।"

8. Having heard the argument of the learned counsel for the parties, this Court is of the view that for abetment of suicide, there must be a reasonable certainty to incite the consequence. No standard or straight jacket formula can be

Sometime a comment passed against a person on lighter side are taken very seriously by such persons, who are hyper-sensitive while other persons, who are not so sensitive, behave differently, they ignore even serious comment made against them and try their best to face the situation. Therefore, each case has to be decided on the basis of its own facts and circumstances. If the accused kept on irritating or annoying the deceased by words, deeds or conduct, which may provoke, urge or encourage the deceased to commit suicide is an abetment. In a case of suicide, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide.

9. Under the facts of the case, I found that occurrence took place on 5.2.2021 between 7:0 pm to 8:0 pm. Call detail indicates that between 3.1.2021 to 5.2.2021 applicant has called the deceased 247 times and also sent 19 SMSs from his mobile number 9628805221 to the mobile number 9833216076 of the deceased. Applicant lastly called the deceased on 5.2.2021 at 4:28 pm, as such there is a proximate link between the unfortunate incident in question and act of the accused applicant. Though the deceased had died because of consuming poisonous substance, but facts of the case reflect that she was hyper-sensitive girl aged about 16 years and feels herself humiliated among his family members, friends and in

161 of CrPC. It is the basic principle of criminal jurisprudence that a man may tell a lie, but circumstances do not. In view of above, I find that allegations and materials against the applicant are of definite nature (not imaginary or inferential one), hence as on date, from the materials available in case diary of this case as well as considering the call details and statement of Neha, the ground taken on behalf of the applicant that he has been falsely implicated due to enmity as mentioned in paragraph no 11 of the affidavit filed in support of the bail application is not liable to be accepted.

10. So far as the judgment relied upon by the learned counsel for the applicant is concerned, the same is distinguishable on facts, hence not helpful to the applicant. It is well settled that every case turns on its own facts. Even one additional or different fact may make a big difference between the conclusion in two cases, because even a single significant detail may alter the entire aspect.

11. On the basis of aforesaid analysis, considering the facts and circumstances of the case, submissions advanced on behalf of parties, complicity of the applicant, gravity of the offence and severity of the punishment, I do not find any good ground to grant bail to the applicant at this stage. Accordingly, the bail application is **rejected**.

12. It is made clear that the observation contained in the instant order is confined to the issue of bail and shall not affect

to conclude the trial, expeditiously, preferably within a period of **one year** from the date of production of a copy of this order without granting any unnecessary adjournment to either of the parties.

Order Date :- 04.04.2022

Saurabh