

**Court No. - 43**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 18992 of 2021

**Applicant :-** Sonu Kumar

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Santosh Kumar Dubey

**Counsel for Opposite Party :-** G.A.

**Hon'ble Samit Gopal,J.**

Matter taken up through video conferencing.

Heard Sri Santosh Kumar Dubey, learned counsel for the applicant and Sri Phool Chandra Singh learned A.G.A. for the State and perused the material on record.

This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- **Sonu Kumar**, seeking enlargement on bail during trial in connection with Case Crime No. 709 of 2019, under Section 306 I.P.C., registered at Police Station Vijay Nagar, District Ghaziabad.

Learned counsel for the applicant argued that the applicant is the husband of the deceased and he was married to her around 09 years back. It is argued that the first information report has been registered by the sister of the deceased with the allegation that the applicant used to consume liquor and used to assault the deceased due to which she became annoyed and committed suicide. It is argued that even from the postmortem report, it is apparent that the deceased received a single ligature mark on her body and the doctor conducting the postmortem report has opined the cause of death as asphyxia as a result of hanging. It is argued that the present case is a case of suicide. It is further argued that the allegation that the applicant used to beat the deceased is false as no bodily injury has been received by the deceased and noted by the doctor in the postmortem report and even there has never been any complaint to this ever. Learned counsel further argued that there is no abetment and instigation of any kind by the applicant which has any nexus with the death of the deceased, the applicant has no mens-rea at all, there is no overt act whatsoever of the applicant, which resulted in the death of the deceased, the applicant has no motive at all to commit the aforesaid offence.

It has been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required. It has also been pointed out that the applicant is not having any criminal history as stated in para 15 of the affidavit and he is in jail since

12.07.2019 and there is no likelihood of early conclusion of trial and hence, the applicant may be released on bail during pendency of trial.

Learned A.G.A. has opposed the prayer for bail and argued that the applicant is the husband of the deceased and the deceased committed suicide due to torture of the applicant.

After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence, the period of detention already undergone, the unlikelihood of early conclusion of trial and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

Let the applicant- **Sonu Kumar**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the

applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

The bail application is allowed.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad.

The computer generated copy of such order shall be self attested by the counsel of the party concerned.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

**Order Date :-** 30.6.2021  
AS Rathore

(Samit Gopal,J.)