

**Court No. - 74**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 54097 of 2023

**Applicant :-** Sachin

**Opposite Party :-** State Of Up Thru Its Secratary Home

**Counsel for Applicant :-** Manish Kumar Kashyap, V.P. Singh Kashyap

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

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

1. List revised.
2. Heard Sri Manish Kumar Kashyap, learned counsel for the applicant and Sri Sanjai Kumar Singh, learned counsel for the State and perused the material on record.
3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant-Sachin, seeking enlargement on bail during trial in connection with Case Crime No. 436 of 2022, under sections 498-A, 304B, 120B I.P.C. and 3/4 D.P. Act, Police Station Madhuban Bapudham, District Ghaziabad.
4. This is second bail application. The first bail application of the applicant was dismissed in non prosecution vide order dated 28.11.2023 passed by this Court in Criminal Misc. Bail Application No. 46784 of 2023 (Sachin Versus State of U.P.).
5. The F.I.R. of the present case was lodged on 24.09.2022 by Dalvir Singh against the applicant and five other persons alleging therein that his daughter Rinki was married on 26 June 2020 to Kapil. After marriage, there was a demand of dowry by the accused persons of Rs. 5 lakh and a Creta vehicle. The same could not be fulfilled. On 23.09.2022, he received an information that his daughter has committed suicide by hanging who is being taken to the hospital. Later on, he came to know that she had died.
6. Learned counsel for the applicant has argued that the applicant is dewar of the deceased who has been falsely implicated in the present case. It is argued that the deceased committed suicide and died which is suggestive from the post mortem examination report which states of the cause of death asphyxia due to anti mortem

hanging. It is argued that although a ligature mark and two contusions are present on the body of the deceased but the two contusions were on the left thigh and left knee joint which no manner could have contributed to the death of the deceased. It is argued while placing paragraph no. 19 of the affidavit that the applicant was living separately from the deceased. It is further argued that the co-accused Km. Sweta has been granted bail by a coordinate Bench of this vide order dated 20.07.2023 passed in Criminal Misc. Bail Application No. 31811 of 2023 (Km. Sweta Versus State of U.P.), copy of the order is annexed as Annexure No. 12 to the affidavit. It is argued that she was the unmarried sister-in-law of the deceased. It is further argued that co-accused Veerpal Singh the father-in-law of the deceased has been granted bail by the Apex Court vide order dated 02.01.2024 passed in Criminal Appeal No. 13 of 2024 (Veerpal Singh Versus State of U.P.), a copy of the order has been produced before this Court which is taken on record. It is argued that general and omnibus allegations have been made against the applicant and other co-accused persons. Applicant is not having any criminal history as stated in para 31 of the affidavit. The applicant is in jail since 12.10.2022.

7. Per contra learned counsel for the State has opposed the prayer for bail.

8. After hearing the counsel for the parties and perusing the record, it is evident that the applicant is devar of the deceased. The applicant was living separately from the deceased. The co-accused Sweta has been granted bail by a coordinate Bench of this vide order dated 20.07.2023 and co-accused Veerpal Singh the father-in-law of the deceased has been granted bail by the Apex Court vide order dated 02.01.2024.

9. Looking to the facts and circumstances of this case, the nature of evidence 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.

10. Let the applicant-**Sachin**, 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.

11. 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.

12. The bail application is allowed.

**Order Date :- 18.1.2024**

K.K. Maurya/E-court

(Samit Gopal,J.)