

**AFR****RESERVED**

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 31421 of 2010

Petitioner :- Kundan Lal

Respondent :- State Of U.P.

Petitioner Counsel :- R.P.S.Chauhan

Respondent Counsel :- Govt.Advocate

Hon'ble Ashok Srivastava,J.

This bail application has been moved on behalf of the applicant Kundan Lal, who is involved in Case Crime No.464 of 2010 under Sections 302, 201, 120-B, IPC, P.S. Kadar Chowk, District Budaun.

It appears necessary that certain facts of the case be mentioned here. Km.Pooja is the deceased in this case. Applicant Kundan Lal is her father. Nand Ram is the real brother of Kundan Lal. Smt. Saroj Rani is the wife of Kundan Lal and one Surjan is a close relative of the family members of the applicant. The co-accused Pappu is said to be a close associate of the co-accused Surjan. There is one Yad Ram who is said to be the beloved of the deceased Km.Pooja.

According to the prosecution case a headless dead body of a woman was found by the informant Rakesh on 31.5.2010. The dead body was lying in a pit which is situated in village Ramzanpur, P.S. Kadar Chowk, Budaun. He informed the police. A case under Sections 302, 201 IPC was registered against unknown persons and investigation commenced. On 18.6.2010 the above mentioned Yad Ram moved an application before the Station Officer of P.S. Kadar Chowk, Budaun that he was in love with Km.Pooja, but all of her family members were against this marriage. They were highly annoyed with Pooja and as a consequence she was sent by her parents to Ramzanpur, the village of co-accused Surjan. It should be mentioned here that Yad Ram is a resident of the village to which the applicant belongs and this village is in district Bareilly. Yad Ram had further informed the police that on 22.5.2010 though Pooja was sent to Ramzanpur yet the applicant and his family members were promulgating in the village that Yad Ram had enticed away Km.Pooja with the aid of his family members and that Km.Pooja was missing. Yad Ram further stated in the application that he came to know through the news papers that a headless body of a woman was found in the limits of

village Ramzanpur. Thereafter the police showed Yad Ram the clothes and ring of the deceased which were identified by him. Yad Ram had also mentioned in his application that the applicant had hatched a conspiracy to kill his daughter Km.Pooja and the wife and his relative Surjan were involved in it and with the help of the co-accused Pappu the poor girl was killed. Thereafter, the investigation proceeded in a certain direction. The suspected accused persons were arrested and on the pointing out of co-accused Nand Ram the head of the deceased was recovered. Before concluding his investigation the investigating officer had examined a number of persons of both the villages under Section 161 Cr.P.C. and thereafter he filed a charge sheet.

I have heard learned counsel for the applicant and the learned AGA and perused the record.

It has been submitted from the side of the applicant that the applicant is in jail since 19.6.2010, that he is innocent and has committed no offence, that he has been falsely implicated in this case due to his enmity with and annoyance of Yad Ram who has falsely implicated him and his family members in the case. It has also been submitted that there has been no motive of the applicant to kill his daughter. It has further been submitted that the story of recovery of the head said to be on the pointing out of Nand Ram is concocted and false. It has further been submitted that there is no evidence at all which may indicate that the dead body of the deceased and the head actually are of Km.Pooja. It has also been submitted that the distance between various places mentioned in the case diary are such that it is practically impossible to reach from one place to other in the time described by the investigating officer in the case diary.

With these contentions the bail application has been pressed.

The bail application has been vehemently opposed by the learned AGA. He has stated that it is a case of 'Honour Killing'. He has handed over an order passed by another Bench of this Court in Criminal Misc. Bail Application No.18043 of 2011, Sanjay Vs. State of U.P.. He has referred the ratio as contained in this bail order which also relates to a case of honour killing in which a brother had killed his real sister and her paramour.

I have perused this bail order. I have examined the affidavit filed alongwith the bail application. From perusal of the affidavit it is evident that nowhere in it the applicant has stated that Km.Pooja was his daughter. He has also not

mentioned in it whether Km.Pooja is missing or hiding herself with certain motive. He has not mentioned anything in the affidavit that what steps he had taken when he found that his young daughter of marriageable age was missing from his house. He is completely silent on this point. He has neither accepted nor denied that he is father of Km.Pooja. In its counter affidavit the State has specifically stated that Km.Pooja was the daughter of the applicant, but no rejoinder affidavit has been filed by the applicant controverting this fact. This conduct of the applicant goes heavily against him.

I have examined the statements of the witnesses recorded by the investigating officer under Section 161 Cr.P.C.. It appears to be a case of 'Honour Killing'. The applicant had made no effort to trace out his missing daughter which is most unnatural conduct on the part of a father, specially when he denies any love affair of the deceased either with Yad Ram or with any other person. We are living in a civilized society. In western U.P. it has become, more or less, a common practice to kill a family member in the name of 'Honour killing'. Such incidents are disturbing, but the fact remains the fact. It is expected of the parents to give protection to their child and the child believes that he is safe in his house and his parents will act as a shield for him against all odds of his life. But if the parents become dreaded enemy of their child only because she/he is in love with someone and their 'honour' is in danger and they go to the extent of killing their children, such attitude of the parents can not be encouraged. Such cases are to be dealt with stern hands and such alleged killers should not be given the facility of bail on legal technicalities.

In a recent judgment the Apex Court has said that 'Honour Killings' should be categorized as rare of the rarest cases and the convict should be sent to gallows. This indicates how the Apex Court is serious and stern in dealing with such matters.

Considering all the aspects of the case and without expressing any opinion as to the merits of the case, I am of the view that no case for bail is made out in favour of the applicant and therefore, the bail application is rejected.

The case of the applicant is definitely on a different footing to that of the co-accused Pappu, who has been released on bail by this Court on merits and there is no parity between the two.

Order Date :- 28.11.2011

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