

Court No. - 11

WWW.LIVELAW.IN

Case :- BAIL No. - 10171 of 2021

Applicant :- Mahfuj

Opposite Party :- State of U.P.

Counsel for Applicant :- Amit Kumar Awasthi, Anand Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh, J.

Heard learned counsel for the applicant, Shri Aniruddh Kumar Singh, learned A.G.A. for the State and perused the material brought on record.

The present bail application has been filed by the applicant in F.I.R. No. 436 of 2020, under Section 302 IPC, Police Station Nighasan, District Kheri with the prayer to enlarge him on bail.

In pursuance of the order dated 16.09.2021, Dr. Atul Kumar Mittal, Director, FSL, Lucknow is present and provides copies of the Circular issued by Director General of Police, Technical Services, U.P. bearing No. TSF 6-2011(2)/1474 dated 19th July, 2018, Circular No. TSF 15-2018 dated 28th July, 2018, Government Order No. 3702/Chha/Pu-9-21-31(159)/2019 dated 13th September, 2021 issued by Additional Chief Secretary, Department of Home, as also the letter of the then Director dated 20th July, 2018 addressed to the Joint Director FSL, In-charge, FSL and all Deputy Directors, FSL for compliance of the aforesaid Circulars and Government Order, which are taken on record. He also places the original report of the FSL in relation to the articles examined in Case Crime No. 436 of 2020 under Section 302 I.P.C., P.S. Nighasan, District Kheri. The original report is returned back to the officer concerned for sending the same to the appropriate authority, after retaining a photocopy of the same on record.

Learned counsel for the applicant submits that applicant has falsely been implicated in the present case, as on the

date of incident, he was not present in the house and was in District Sitapur. It is further submitted that F.I.R. was lodged by the brother of the applicant against unknown and during the course of investigation, the applicant was implicated merely on the basis of his confessional statement as well as the statement of neighbour Shaban. The applicant, in his statement given before the Investigating Officer, stated that his father was asking him repeatedly not to intimate with his bhabhi, as a result of which, he was killed by the applicant. Shaban, in his statement, stated to the Investigating Officer that in the previous evening of the date of incident, applicant asked him for a knife and in the night of 16.06.2020, applicant's father was killed and the knife was recovered from the spot. Learned counsel for the applicant also submits that charge sheet has been filed and after committal, charges were framed by the trial court and the informant as well as mother of the applicant were examined before the trial court as P.W. 1 and P.W. 2. It is vehemently submitted that they have not supported the prosecution version. It is next submitted that finger prints of the applicant were also not sent to FSL for expert opinion. In such circumstances, applicant, who is in jail since 23.06.2020, is entitled for bail.

Learned A.G.A. while opposing the prayer for grant of bail to the applicant, submits that during the course of investigation, involvement of the applicant was found and the knife, used in the crime, was identified by witness Shaban, which was borrowed by the applicant from him and the same was also found on the place of incident. Learned A.G.A. further submits that as per the FSL report placed today by the Director, human blood was found on all the articles. It is, thus, submitted that the applicant is not entitled for bail.

I have considered the rival submissions advanced by the learned counsel for the parties and gone through the record as well as statement of the witness, Shaban and

also the statements of P.W. 1 and P.W. 2 deposed before the trial court.

In the statement of witness Shaban, he categorically stated that applicant asked for the knife from him in the previous evening of the date of incident and the same knife was used in the killing of the father of the applicant.

In view of above, no case for bail is made out. The application, accordingly, stands rejected.

Trial court is directed to conclude the trial of the case within a period of six months without giving any unnecessary adjournments to either of the parties.

Superintendent of Police as well as Joint Director (Prosecution) concerned are directed to ensure the presence of the witnesses before the trial court.

However, before parting with the judgment, it is noteworthy that from a perusal of Circulars dated 19.07.2018 and 28.07.2018, it is evident that the report in regard to the articles recovered or taken into custody, during the course of investigation in cases of POCSO Act or the reports of D.N.A. etc. in the cases of rape, must be communicated to the concerned District Authorities within 15 days. However, in a number of cases, it is seen that the directions issued by the aforesaid Circulars are not being complied with.

Director General of Police, Technical Services, U.P., Lucknow is directed to ensure compliance of the aforesaid Circulars for proper dispensation of justice in the criminal matters.

Office is directed to communicate this order to the Director General of Police, Technical Services, U.P., Lucknow and other concerned authorities for necessary compliance, forthwith.

Order Date :- 20.9.2021

VKS