Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 4595 of 2021

Applicant :- Gulshan
Opposite Party :- State of U.P.
Counsel for Applicant :- Ansar Ahmad
Counsel for Opposite Party :- G.A.

Hon'ble J.J. Munir,J.

This is an application for bail on behalf of the applicant, **Gulshan** in connection with Case Crime No.454 of 2020, under Sections 302, 307, 506 IPC, Police Station Kotwali Mainpuri, District Mainpuri.

Heard Mr. Ansar Ahmad learned Counsel for the applicant and Mr. S.S. Tiwari, learned A.G.A. appearing on behalf of the State through video conferencing.

The submission of Mr. Ansar Ahmad learned Counsel for the applicant is that the role assigned to the applicant is of assaulting the injured witness Rohit Kumar and the role of shooting is assigned to the other co-accused, but not the applicant. He submits that once the injured witness has testified to the fact that it was not the applicant Gulshan who shot the deceased or injured Rohit Kumar, his case is distinguishable from the other applicant and he is entitled to bail.

Learned A.G.A. has opposed the prayer for bail. Mr. Tiwari, submits that it is a case of honour killing, inasmuch as Rahul and Jyoti had married contrary to the wish of Jyoti's family. It is pointed out that Jyoti was from a different caste than that of Rahul Kumar's and this had much endangered her family. The assailants in this case

include Brijesh Mishra, Jyoti's father, whereas the other co-accused Ashok Mishra is Jyoti's father's brother and co-accused Raghvendra and Raghurai, are Ashok Mishra's sons whereas the applicant Gulshan is Brijesh Mishra's son, that is to say, Jyoti's brother. Mr. Tiwari submits that the assault as a whole wherein the applicant has participated is a brazen act of honour killing and a refusal by family members of Jyoti to abide by the constitutional values so dear to the law for ensuring personal liberty of citizens. It is argued that Jyoti's family, going by the eye-witness account have eliminated her to redeem their false notions of family honour and shot her husband also to punish him.

This Court has considered the the rival submissions advanced on both sides. *Prima facie*, it is a brazen case of honour killing where family members, including the deceased Jyoti's father, uncle, cousin and her brother have all participated to put an end to a young life on account of a false sense of family pride, which they have *prima facie* sought to redeem through this crime. The applicant is certainly an active participant in the entire episode, though he may not have wielded the gun or inflicted the fatal injury.

In the opinion of this Court, *prima facie* if these allegations were to be established at the trial, there is no place for citizens in our society who act in derogation of the much cherished constitutional values of individual liberty, and, instead, repose faith in archaic social values of family honour to an extent that they would go to eliminate

a family member choosing a life partner for herself.

No case for bail in the opinion of this Court is made out.

The bail application is hereby **rejected.**

Order Date :- 2.7.2021
NSC