

IA No. 03/2024
SC No. 275/2022
State Vs. Naushad & Anr.
FIR No. 601/2022
PS: New Usmanpur
U/s: 302/34 of IPC

06.01.2024

**ORDER ON APPLICATION FOR GRANT OF BAIL OF
APPLICANT/ACCUSED KAMRUDDIN**

1. This order of mine disposed of an application for grant of bail filed by applicant/accused Kamruddin.
2. I have heard the Ld. Counsel for the applicant/accused and the Ld. Addl. PP for the State.
3. Sh. Aditya Singhal, Ld. Counsel for the accused Kamruddin has submitted that in the case in hand, this applicant/accused was arrested way back on dated 01.06.2022 and since then, he is behind bars. He has also submitted that the public witnesses have already been examined and cross-examined and prayed for grant of bail.
4. On the other hand, Sh. Masood Ahmad, Ld. Addl. PP for the State has vehemently opposed this application and submitted that this applicant/accused Kamruddin alongwith other co-accused Naushad has committed murder of the deceased. He has also submitted that during the investigation, statement of Shaukin, who is father-in-law of the deceased, was also recorded on dated 16.07.2022, wherein, he had disclosed the name of one Sahil, who is the eyewitness to this occurrence. He has also

submitted that Shaukin has been examined in this court, as, PW-5 and after seeking permission from the court, this witness was also cross-examined by him and even during his cross-examination, he had disclosed that Sahil had told him that his son-in-law Javed was killed by this applicant/accused Kamruddin and co-accused Naushad. He has also submitted that even if the complainant Nadeem has been won over by the accused, even then, the testimony of widow of the deceased namely Salma (PW-2) recorded in this court cannot be ignored, as, during her cross-examination by substituted Addl. PP for the State on dated 28.08.2023, she had deposed that son of this applicant /accused Kamruddin namely Sameer had threatened to kill her and her son in case, she would depose against this applicant /accused Kamruddin and she had also deposed that relatives of this applicant/accused Kamruddin and co-accused Naushad had also threatened her and she is having two minor children and she is having danger to her life and lives of her minor children. He has further submitted that from the testimony of PW-2 Salma, it is proved that on date of occurrence i.e. 31.05.2022 at about 3:00/3:30 PM, both the accused Kamruddin and Naushad had gone to the house of the deceased and asked about the whereabouts of the deceased and PW-2, who is widow of the deceased had told both the accused that her husband had gone to his work and both the accused started abusing husband of this witness and told to PW-2 that AAJ JAVED NAHI BACHEGA, HUM USE JAAN SE KHATAM KAR DENGE and submitted

that on the same evening, both the accused had committed murder of the deceased and submitted that since, from the testimony of PW-2 Salma, it is clear that these accused had threatened to this witness and further submitted that since, witness Shaukin had told in his statement recorded by the IO, during the investigation that Sahil, who is the eyewitness of this murder had told him that this applicant/accused Kamruddin and Naushad had killed to the deceased, but, for the best reason known to the IO, he did not record the statement of Sahil and submitted that even if, all the public witnesses, who are named in the list of witnesses have been examined and cross-examined, but, the testimony of PW-2 Salma cannot be ignored and submitted that since, this applicant/accused Kamruddin has committed heinous offence of murder and charge against him has been framed u/s. 302/34 of IPC and in case, this applicant /accused Kamruddin is released on bail, it may be proved to be fatal for the lives and liberty of PW-2 and her minor children and submitted that this applicant/accused Kamruddin may also flee from justice and prayed for dismissal of the present application.

5. I have given thoughtful consideration to the submissions made by the Ld. Counsels for the parties and perused the record.

6. The perusal of the record reveals that this applicant/accused Kamruddin alongwith other accused is alleged to have committed the murder of the deceased. Charge against this applicant/accused Kamruddin has been framed u/s. 302/34 of

IPC. No doubt that public witnesses have already been examined and cross-examined, but, as PW-2 Salma, who is widow of the deceased, had deposed in this court that she was threatened to be killed by the son of this applicant/accused Kamruddin namely Sameer and she was also threatened by the relatives of this applicant/accused Kamruddin and other co-accused. The deputed IO/SI Nitin has told to this court today that on receiving of such information regarding threat to the lives of this PW-2 and her children, the SHO of police station Seelampur had provided his mobile phone number to PW-2 so that she may seek help from him. Since, this applicant/accused Kamruddin is alleged to have committed heinous offence of murder. It is pertinent to mention here that statement of Shaukin, who is father-in-law of the deceased was also recorded during the investigation, who has been examined in this court, as PW-5 and during his cross-examination by the Ld. Addl. PP for the State also he has deposed in this court that Sahil had told him that his son-in-law Javed was killed by this applicant/accused Kamruddin and his co-accused Naushad, but, for the best reason known to the IO of the present case, he did not choose to record the statement of the alleged eyewitness Sahil.

7. Since, this applicant/accused Kamruddin is alleged to have committed the heinous offence of murder and charge against this applicant/accused Kamruddin has been framed u/s. 302/34 of IPC, so, taking into consideration the nature of accusation and gravity of the offences alleged to have been committed by this

applicant/accused and likelihood of his fleeing from justice, this applicant/accused does not deserve the concession of bail. Therefore, **application for grant of bail filed by the applicant /accused Kamruddin is dismissed.** Dasti copy of this order be provided to the parties. **Attested copies of this order be also sent to the SHO of the concerned police station and also to the Superintendent of Central Jail, Tihar for supplying the same to this applicant/accused.**

(PAWAN KUMAR MATTO)
Addl. Sessions Judge (Special Judge NDPS)
North East/KKD Courts/Delhi/06.01.2024