

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2424 of 2023

Applicant :- Prakash

Opposite Party :- State of U.P.

Counsel for Applicant :- Suresh Dhar Dwivedi, Nishant Kumar, Prashant Kumar Bhardwaj, Ritesh Singh, Suresh Singh

Counsel for Opposite Party :- G.A., Neelabh Srivastava

Hon'ble Samit Gopal, J.

1. List revised.
2. Heard Sri R.N. Nigam holding brief of Sri Ritesh Singh, learned counsel for the applicant, Sri Neelabh Srivastava, learned counsel for the first informant, Sri Birendra Pratap 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-Prakash seeking enlargement on bail during trial in connection with Case Crime No.792 of 2022, under Sections 498-A, 304-B, 323, 504 IPC and 3/4 Dowry Prohibition Act, registered at Police Station Sadar Bazar, District Shahjahanpur.
4. Learned counsel for the applicant submits that he does not intend to file any rejoinder affidavit to the counter affidavit filed on behalf of the first informant.
5. The FIR of the matter was lodged on 12.8.2022 by Phool Chand against the applicant and nine other persons alleging therein that marriage of his daughter Rita Devi was solemnized with the applicant three years back in which he had given dowry but her in-laws were not happy and there was demand of additional dowry due to which they used to torture and trouble her. There was a demand of car, plot of land and Rs.2 lakh from her. Around one year back due to dowry, they had beaten her and thrown her out of the house but later on she was again sent back to her matrimonial house. On 12.8.2022 due to non-fulfillment of dowry, they have murdered his daughter. Report be thus lodged.
6. Learned counsel for the applicant argued that although the applicant is the husband of the deceased but has been falsely implicated in the present case. The deceased and the applicant were married around four years back but even then there was no

child from the wedlock which was the reason for her to remain depressed and as such she committed suicide, para 9 of the affidavit has been placed before the Court. The factum of suicide is also consistent to the postmortem report wherein the deceased is stated to have received a single ligature mark on her body and the cause of death is asphyxia as a result of ante-mortem hanging. The applicant has no criminal history, para 13 has been placed before the Court. The applicant is in jail since 22.8.2022.

7. Per contra learned counsel for the first informant as well as learned counsel for the State vehemently opposed the prayer for bail and argued that the applicant is the husband of the deceased. The deceased died in her matrimonial house within three years of marriage, the death is unnatural and even there is no plausible explanation given by the applicant for the death of his wife, as such bail application be rejected.

8. After hearing the counsel for the parties and perusing the record, it is evident that the applicant is the husband of the deceased. The deceased died in her matrimonial house within three years of marriage in an unnatural circumstances. There is no convincing reason given by the applicant for the death of his wife.

9. Looking to the facts and circumstances of the case, I do not find it a fit case for bail, hence, the bail application is **rejected**.

(Samit Gopal, J.)

Order Date :- 7.12.2023
Gaurav Kuls