

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7520 of 2023

Applicant :- Mohit

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Pawan Kumar Yadav, Advocate, holding brief of Sri A.K. Srivastava, learned counsel for the applicant and Sri Pradeep Kumar, A.G.A. for the State.
2. The instant bail application has been filed on behalf of the applicant seeking release on bail in Case Crime No. 271 of 2022 under sections 498-A, 304B IPC and 3/4 D.P. Act, Police Station Dhaulana, District Hapur.
3. FIR of the present case was lodged against the applicant and his family members and according to the FIR, marriage of the applicant was performed with the sister of the informant about one a half years ago and after marriage, the applicant and his family members started torturing her for dowry and on 07.06.2022, the informant received an information that condition of his sister is not good and, thereafter, when he arrived at her matrimonial home, he found that applicant and his family members have committed her murder.
4. Learned counsel for the applicant submits that applicant is husband of the deceased and on the basis of false allegation of demand of dowry and torture, he along with other family members, has been made accused in the present matter. Actually, the deceased was very ill tempered lady and on her pressure, the applicant had to reside separately but, thereafter, she started making pressure that as applicant is also having share in his ancestral property, therefore, after selling his portion, he should give money to her so she can start business with her brother and when the applicant refused to do so, she committed suicide in anger.
5. Further, it is submitted that postmortem report also suggests that

deceased committed suicide as according to the doctor, she died due to hanging and her hyoid bone was also found intact.

6. Further, he submits that applicant is not having any previous criminal history and he is in jail since 09.06.2022 i.e. for more than a year.

7. Per contra, learned AGA opposed the prayer for bail and submits that applicant is husband of the deceased who died within two years of marriage under abnormal circumstances in her matrimonial home, therefore, applicant should not be released on bail.

8. I have heard both the parties and perused the record of the case.

9. Although applicant is husband of the deceased who died within two years of marriage under abnormal circumstances in her matrimonial home and there is also demand of dowry but the postmortem report suggests that she died due to hanging and hyoid bone was found intact and, therefore, the fact that deceased committed suicide cannot be brushed aside at this stage. The defence taken by the applicant in the instant bail application can also not be completely ruled out at this stage.

10. Applicant is not having any criminal history and he is languishing in jail since 09.06.2022 i.e. for more than a year.

11. Therefore, considering the facts and circumstance of the case as discussed above, in my view, the applicant is entitled to be enlarged on bail.

12. Let the applicant **Mohit** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

13. In case of breach of any of the above conditions, the prosecution will be at liberty to move an application before this Court for cancellation of bail of the applicant.

14. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 17.10.2023

Madhurima