

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8034 of 2023

Applicant :- Gaurav Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Raj Pandey, Dhirendra Kumar Srivastava

Counsel for Opposite Party :- G.A., Sandeep Kumar Singh

Hon'ble Sameer Jain, J.

1. None appeared on behalf of the informant even in revised call.
2. Heard Shri Dhirendra Kumar Srivastava, learned counsel for the applicant and Shri Brijesh Pratap Singh, learned A.G.A. for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No.85 of 2022, under Sections 498-A, 304-B, 506 IPC & Section 3/4 D.P. Act, Police Station Chandi Nagar, District Baghpat, during pendency of the trial in the court below.
4. FIR of the present case was lodged on 26.04.2022 against applicant and his family members and according to the F.I.R., marriage of the applicant was solemnized with the daughter of the informant on 30.04.2018 and after solemnization of the marriage, applicant and his family members started torturing her for demand of dowry. It is further mentioned in the FIR that on 24.04.2022 daughter of the informant came at her paternal home and informed the informant that her life is in danger and also stated that she did not want to join the company of applicant but on 25.04.2022 after panchayat, informant has sent his daughter to her matrimonial

home and on 26.04.2022, informant received information by one Brij Mohan that something has happened with his daughter and when he arrived at her matrimonial home then found that his daughter had died. It is further mentioned in the FIR that applicant and his family members due to non-fulfilment of demand of dowry have committed the murder of the daughter of the informant.

5. 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 has been made accused in the present matter and actually deceased had gone at her paternal home on 24.04.2022 to attend birthday function of her brother and applicant also arrived there and even after insistence of applicant, she was not ready to come along with him but with the intervention of the informant after panchayat she anyhow under compulsion became ready and arrived at her matrimonial home on 25.04.2022 and on same day, she committed suicide by hanging herself.

6. He further submits that however in the post-mortem report four abrasions were found around the neck by the doctor and doctor did not opine that deceased died due to hanging rather he disclosed that cause of death is occurred due to asphyxia as a result of ante-mortem injuries but it appears to be a case of hanging.

7. He further submits that the statements of some eye-witnesses, who were neighbours of the applicant, were recorded during investigation and they categorically stated that after breaking the door, the dead-body of the deceased was recovered and at the time when they entered in the room they found that deceased was hanging through her saari.

8. He further submits that statements of the independent witnesses have been annexed as Annexure No.6 of the affidavit.

9. He further submits that from these statements, it clearly appears

that actually it is a case of suicide.

9. He further submits that applicant is not having any previous criminal history and he is in jail since 27.04.2022 i.e. for last more than one and a half years.

10. Per contra, learned AGA opposed the prayer for bail and submits that applicant is husband of the deceased and his wife died within seven years of her marriage under abnormal circumstances in her matrimonial home and there is also demand of dowry and torture.

11. He further submits that autopsy surgeon never opined that deceased died due to hanging and according to the autopsy surgeon she died due to asphyxia as a result of ante-mortem injuries.

12. He further pointed out that the hyoid bone of the deceased was also found fractured and therefore, it seems to be a case of homicidal death and merely on the basis of statements of the neighbours of the applicant at this stage, it cannot be said that after breaking the door, the dead-body of the deceased was recovered and she committed suicide by hanging herself.

13. I have heard learned counsel for both the parties and perused the record of the case.

14. Applicant is husband of the deceased and his wife died within seven years of her marriage under abnormal circumstances in her matrimonial home and there is also demand of dowry.

15. Further, post-mortem report of the deceased suggests that there were four abrasions around her neck and doctor opined that she died due to asphyxia as a result of ante-mortem injuries.

16. Further, post-mortem report of the deceased also suggests that her hyoid bone was found fractured.

17. Further, from the statements of the neighbours of the applicant recorded by the Investigating Officer, however it appears that after breaking the door, the dead-body of the deceased was recovered and at the time of recovery, she was in hanged position but autopsy surgeon did not opine that it is a case of hanging and even hyoid bone of the deceased was also found fractured, therefore, I found force in the argument advanced by learned A.G.A. that merely on the basis of statements of the neighbours of the applicant at this stage, it cannot be observed that it is a case of suicide.

18. Further, as per informant on 25.04.2022 after panchayat deceased went to her matrimonial home however due to the torture of applicant and his family members, she was not ready to go to her matrimonial home and on same day, she committed suicide therefore, at this stage it also appears that there is evidence of torture and demand of dowry soon before the death of the deceased.

19. Therefore, considering the facts and circumstances of the case, discussed above, I am not inclined to release the on bail.

20. Accordingly, without expressing any opinion on the merits of the case, the instant bail application filed on behalf of the applicant - **Gaurav Kumar is rejected.**

Order Date :- 8.12.2023

Zafar