

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7790 of 2023

Applicant :- Naresh

Opposite Party :- State of U.P.

Counsel for Applicant :- Manu Srivastava, Vijay Shantam, Vivek Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Rejoinder affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Vijay Shantam, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 80 of 2022, under Sections 498-A, 304-B, 323 IPC & 3/4 D.P. Act, Police Station- Barla, District- Aligarh, during pendency of the trial in the court below.
4. FIR of the present case was lodged against the applicant and his family members and according to the FIR, marriage of the applicant was solemnized with the maternal grand daughter of the informant on 29.12.2019 and after marriage, applicant and his family members started making demand of motorcycle, golden chain, ring and Rs. two lac and on 28.04.2022 they have committed her murder for want of dowry.
5. Learned counsel for the applicant submitted that applicant is the husband of the deceased and on the basis of general allegation, FIR of the present case was lodged. He further submitted that however, informant and sister of the deceased supported the prosecution case during investigation but when both appeared before the trial court then they did not support the prosecution case and both have been declared hostile and therefore, at present there is no evidence on record, which can show that applicant ever demanded any dowry and tortured the deceased.
6. He further submitted that actually marriage of the applicant was performed with the deceased during Covid-19 pandemic and due

to Covid-19 pandemic, applicant started facing financial difficulties and due to financial problem, deceased committed suicide by hanging herself. He further submitted that post-mortem report of the deceased also suggests that she died due to hanging.

7. He further submitted that applicant is not having any criminal history and he is in jail since 07.05.2022 i.e. for more than one and half years.

8. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is the husband of the deceased and his wife died within seven years of her marriage in her matrimonial home under abnormal circumstances and there is also allegation of demand of dowry but could not dispute the fact that when informant of the case and sister of the deceased appeared before the trial court then they have declared hostile. He further could not dispute the fact that applicant is in jail in the present matter for last more than one and half years.

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

10. However, applicant is the husband of the deceased and his wife died within two and half years of her marriage in her matrimonial home under abnormal circumstances and there was also allegation of demand of dowry but from the record, it reflects that informant of the case and sister of deceased when appeared before the trial court then they did not support the prosecution case and both have been declared hostile.

11. Further, from the record, it reflects that marriage of the applicant was performed with the deceased in December, 2019 and, therefore, argument advanced by learned counsel for the applicant cannot be completely brushed aside at this stage, especially, considering the fact that deceased died due to hanging.

12. Further, applicant is not having any criminal history and he is in jail since 07.05.2022 i.e. for last more than one and half years.

13. Therefore, considering the facts and circumstances of the case discussed above, in my view applicant is entitled to be released on bail.

14. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

15. Let the applicant- **Naresh** 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.

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

17. 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 :- 30.11.2023

KK Patel