

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8632 of 2023

Applicant :- Sandeep Prajapati

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajeev Kumar Singh, Shashi Dhar Goswami

Counsel for Opposite Party :- G.A

Hon'ble Sameer Jain, J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Rajeev Kumar Singh, learned counsel for the applicant and Sri Jhamman Ram, learned AGA-I for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 195 of 2021, under Sections 302, 498A IPC and Section 3/4 D.P. Act, Police Station Jhangaha, District Gorakhpur during pendency of the trial.
4. FIR of the present case was lodged against applicant and three others and according to the FIR marriage of the applicant was performed with the daughter of the informant about seven years before and after marriage applicant and his family members tortured her for dowry and on 04.06.2021 informant came to know that due to non fulfillment of demand of dowry applicant and his family members committed the murder of his daughter. It is further mentioned in the FIR that his daughter was also having three children.
5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and only being husband of the deceased, he has been made accused in the present matter.
6. He further submits that actually deceased wanted to live separately along with applicant and her children but as applicant was not in a position to fulfill her desire, therefore, she committed suicide.

7. He further submits that in the post mortem report it is not mentioned that deceased died due to asphyxia as a result of hanging and it is mentioned that deceased died due to ante mortem injuries but from perusal of the post mortem report it reflects that deceased sustained two abrasions and one ligature mark, therefore, it appears that she died due to asphyxia.

8. He further submits that however hyoid bone of the deceased was also found fractured but it is not necessary that in case of hanging hyoid bone of the deceased could not be fractured.

9. He further submits that during trial doctor, who conducted the post mortem of the deceased, when appeared before the trial court then he also only stated that deceased died due to asphyxia and he did not opine that it is a case of homicidal death.

10. He further submits that in the FIR and in the statement of the prosecution witnesses recorded during investigation no specific demand of dowry was disclosed, therefore, it appears that it is not a case of dowry death.

11. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 25.06.2021 i.e. for last almost two and half years.

12. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is husband of the deceased and he is not facing trial under Section 304B IPC but under Section 302 IPC and his wife died in his home and post mortem report suggests that it is a case of homicidal death and applicant has taken a wrong plea that it is a case of suicide, therefore, considering the facts and circumstances of the case, applicant should not be released on bail.

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

14. From the record, it reflects that applicant is husband of the deceased and post mortem report of the deceased suggests that she died due to ante mortem injuries and her hyoid bone was found fractured, therefore, prima facie it appears to be a case of homicidal death and applicant in the instant bail application has taken a plea that deceased committed suicide, therefore, I find force in the argument advanced by learned AGA that it appears that applicant has taken a wrong plea and he failed to explain the homicidal death of his wife.

15. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be released on bail.

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

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.

18. However, considering the fact that applicant is in jail for last almost two and half years, trial court is directed to conclude the trial of the case within a period of eight months from the date of production of certified copy of this order strictly as per provision of Section 309 Cr.P.C., if there is no legal impediment.

Order Date :- 14.12.2023

AK Pandey