

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9320 of 2023

Applicant :- Vijay Kumar Ram @ Vijay

Opposite Party :- State of U.P.

Counsel for Applicant :- Indrajeet Kumar Shukla, Kaushal Mishra

Counsel for Opposite Party :- G.A., Mithilesh Kumar Gupta

Hon'ble Sameer Jain, J.

1. Counter affidavit filed today on behalf of the informant is taken on record.

2. Heard Sri Indrajeet Kumar Shukla, learned counsel for the applicant, Sri Mithilesh Kumar Gupta, learned counsel for the informant and Sri Suresh Bahadur Singh, learned AGA for the State.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 0113 of 2021, under Sections 498A, 304B IPC and Section 3/4 D.P. Act, Police Station Sadat, District Ghazipur during pendency of the trial.

4. Learned counsel for the applicant submitted that this is second bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed by the co-ordinate Bench of this Court vide order dated 18.05.2022 passed in Criminal Misc. Bail Application No. 4242 of 2022 and he is pressing the instant second bail application on the ground that when informant was examined as PW-1 before the trial court then he disclosed certain new facts and on the basis of facts disclosed by the informant, the story narrated by the informant in the FIR and in his statement recorded during investigation becomes doubtful.

5. He further submits that at the time of rejection of first bail application, trial court was directed to conclude the trial of the case expeditiously within a period of one year but since rejection, more than one year has been passed and till date trial of the case could not be concluded. He further submits that till date only three prosecution witnesses could be examined. He further submits that

applicant is although husband of the deceased but he is in jail since 22.05.2021 i.e. for almost two and half years.

6. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that applicant is husband of the deceased and after considering the entire facts of the case, the first bail application of the applicant was dismissed and his wife died within seven months of her marriage and evidence of the prosecution witnesses recorded before the trial court cannot be analyzed at this stage, therefore, applicant should not be released on bail.

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

8. This is second bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed by this Court. I find force in the argument advanced by learned counsel for the informant and learned AGA that this Court at this stage cannot analyze the evidence of the prosecution witnesses recorded by the trial court, therefore, except the incarceration of two and half years there is no new ground available to the applicant on the basis of which second bail application can be considered. Applicant is husband and his wife died within seven months of her marriage under abnormal circumstances.

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

10. Accordingly, the instant second bail application is rejected at this stage.

11. However, considering the fact that applicant is in jail for 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.

12. It is open to the applicant to renew his prayer for bail after stipulated period of eight months, if in the meantime trial of the case could not be concluded.

13. 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 :- 12.10.2023

AK Pandey