

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9196 of 2023

Applicant :- Bantu

Opposite Party :- State of U.P.

Counsel for Applicant :- Satya Narayan Yadav

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 Dinesh Kumar Bhaskar, Advocate holding brief of Sri S.N. Yadav, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 186 of 2019, under Sections 498A, 304B IPC and Section 3/4 D.P. Act, Police Station Fariha, District Firozabad during pendency of the trial.

4. FIR of the present case was lodged against applicant and his family members and according to the FIR marriage of the applicant was performed with the daughter of the informant on 29.04.2018 and after marriage applicant and his family members tortured her for a car and on 28.09.2019 informant received an information that applicant and his family members have committed the murder of his daughter for want of dowry.

5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and only being husband of the deceased he has been made accused in the present matter. He further submits that actually deceased the wife of applicant while cooking food accidentally caught fire and sustained burn injuries and died. He further submits that however during investigation informant and his wife i.e. parents of the deceased supported the version of the FIR but during trial they did not support the prosecution case.

6. He further submits that however father of the deceased i.e.

informant supported the prosecution case during his examination-in-chief but next day when his cross examination was recorded then he categorically stated that there was absolutely no demand of dowry.

7. He further submits that when mother of the deceased appeared before the trial court as PW-2 then since beginning she did not support the prosecution case and even after her examination-in-chief she has been declared hostile. He further submits that mother of the deceased also stated that as per information furnished by the neighbors her daughter died accidentally while she was cooking food. He next submits that statement of both these witnesses have been annexed along with supplementary affidavit.

8. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 16.10.2019 i.e. for last more than four years.

9. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is husband of the deceased and she died within two years of her marriage under abnormal circumstances in her matrimonial home and there is also allegation of demand of dowry but could not dispute the fact that PW-1, the informant (father of the deceased) during his cross examination which was recorded on next day from his examination-in-chief did not support the prosecution case with regard to demand of dowry. He further could not dispute the fact that mother of the deceased when appeared before the trial court as PW-2 then since beginning she did not support the prosecution case and was declared hostile. He further could not dispute the fact that applicant in the present matter is in jail since 16.10.2019 i.e. for last more than four years.

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

11. However, applicant is husband of the deceased and his wife died due to burn injury in her matrimonial home within two years of her marriage and there is also allegation of demand of dowry but during cross examination, which was recorded next day of the examination-in-chief, the informant i.e. father of the victim did not support the prosecution case with regard to demand of dowry and stated that there was no demand of dowry.

12. Further, when mother of the deceased appeared before the trial court as PW-2 then even in her examination-in-chief she did not support the prosecution case and she was declared hostile.

13. Further, applicant is not having any criminal history and in the present matter he is in jail since 16.10.2019 i.e. for last more than four years, therefore, it appears that he has already served more than 50% of the minimum sentence provided under Section 304B IPC.

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

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

16. Let the applicant - **Bantu** 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.

17. 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.

18. 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 :- 2.12.2023

AK Pandey