

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13906 of 2022

Applicant :- Pappu@ Ambika Prasad

Opposite Party :- State of U.P.

Counsel for Applicant :- Mahadeo Singh Chandel, Lal Chandra Mishra

Counsel for Opposite Party :- G.A., Pusp Raj Singh

Hon'ble Sameer Jain, J.

1. Heard Sri Lal Chandra Mishra, learned counsel for the applicant, Sri Pushp Raj Singh, learned counsel for the informant and Sri Santosh Kumar Nigam, learned A.G.A. for the State.
2. The instant bail application has been filed on behalf of the applicant seeking release on bail in Case Crime No. 82 of 2021 under sections 498-A, 304-B IPC and 3/4 D.P. Act, Police Station Bandusa, District Banda.
3. FIR of the present case was lodged against the applicant and his family members and according to the FIR, marriage of the applicant was performed with the daughter of the informant and after marriage, applicant and his family members tortured her for a bullet motorcycle and on 13.9.2021, applicant at his family members hanged his daughter for want of dowry.
4. Learned counsel for the applicant submits that entire allegations made against the applicant are totally false and baseless and applicant neither ever tortured the disease nor he ever demanded any dowry and only being husband of the diseased he has been made accused in the present matter.
5. He further submits that the deceased committed suicide within five months of her marriage and applicant could not become even aware about the true facts but since marriage diseased was not happy. He further submits, after her death applicant came to know that she was having love affair with some other boy and did not want to marry the applicant and her marriage was performed against her wishes and therefore, it appears that she committed suicide by hanging herself.

6. He next submitted that the postmortem report also suggests that she committed suicide by hanging and applicant is not having any previous criminal history and he is in jail since 16.9.2021 i.e. for more than two years.

7. *Per Contra*, learned A.G.A. as well as learned counsel for the informant opposed to the prayer for bail and submit that applicant is husband of the deceased who died within five months of the marriage under unnatural circumstances in her matrimonial home and there is also demand of dowry but they could not dispute the fact that postmortem report shows that the diseased died due to hanging and applicant is in jail for more than two years.

8. I have heard all sides and perused the record of the case.

9. However, from the record it appears that applicant is husband of the deceased and his wife died within five years of marriage under unnatural circumstances and there is also demand of one bullet motorcycle, but the postmortem report of the diseased suggests that she died due to hanging. Therefore, the argument advanced by learned counsel for the applicant and the defence taken by the applicant cannot be completely ruled out at this stage.

10. Further, applicant is in jail since 16.9.2021 i.e. for more than two years and he is having no previous criminal history and from the record it appears that till date not a single prosecution witness has been examined.

11. Therefore, considering the facts and circumstances of the case as discussed above, I am of the view that applicant is entitled to be released on bail.

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

13. Let the applicant **Pappu@ Ambika Prasad** 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.

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

15. 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 :- 6.11.2023

Madhurima