

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12628 of 2022

Applicant :- Rahul

Opposite Party :- State Of U.P. Through Secretary Home At Lucknow

Counsel for Applicant :- Kumar Dhananjay, Jitendra Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Jitendra Kumar, learned counsel for the applicant and Sri Ravi Kant Kushwaha, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 781 of 2020, under Sections 323, 498-A, 304-B IPC & 3/4 D.P. Act, Police Station- Kavi Nagar, District- Ghaziabad, during pendency of the trial in the court below.
3. FIR of the present case was lodged against applicant and according to the FIR, marriage of the applicant was solemnized with the cousin sister of the informant on 22.04.2016 and after marriage, applicant tortured her for demand of dowry and on 12.06.2020, informant received an information that his sister has died.
4. Learned counsel for the applicant submitted that applicant is the husband of the deceased and on the basis of false allegation of demand of dowry and torture, he has been made accused in the present matter and actually during Covid-19 pandemic when entire country was in locked down, due to financial crisis, some mis-happening happened with the deceased and she died.
5. He further submitted that informant and other witnesses of fact when appeared before the trial court then they have been declared hostile.
6. He further submitted that applicant is not having any criminal history and he is in jail since 13.06.2020 i.e. for last more than three and half years.

7. 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 due to smothering and there is also allegation of demand of dowry and post-mortem report of the deceased suggests that it is a case of homicidal death and false defence has been taken by the applicant, therefore, applicant should not be released on bail.

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

9. However, it appears that informant and other witnesses of fact when appeared before the trial court then they did not support the prosecution case and they have been declared hostile but applicant is the husband of the deceased and post-mortem report of the deceased suggests that she died due to smothering within seven years of her marriage in her matrimonial home and applicant failed to explain her murder, therefore, in my view, applicant is not entitled to be released on bail.

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

11. 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

KK Patel