

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 16078 of 2022

Applicant :- Sanjeev Pandey

Opposite Party :- State of U.P.

Counsel for Applicant :- Brij Raj Singh, Aditya Narayan Shukla

Counsel for Opposite Party :- G.A., Shailesh Pandey

Hon'ble Samit Gopal, J.

1. List revised.

2. Heard Sri Brij Raj Singh learned counsel for the applicant, Sri Shailesh Pandey, learned counsel for the first informant, Sri Devendra Nath Shukla, learned counsel for the State and perused the material on record.

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant-Sanjeev Pandey seeking enlargement on bail during trial in connection with Case Crime No.209 of 2021, under Sections 498-A, 304-B, 120-B IPC and 3/4 Dowry Prohibition Act, registered at Police Station Kotwali Dehat, District Mirzapur.

4. The FIR of the matter was lodged on 12.11.2021 by Rahul Dubey against the applicant and four other persons alleging therein that the marriage of his sister Bindu Pandey was solemnized with the applicant on 18.5.2019 in which he had given dowry but her in-laws were not happy and there was demand of additional dowry of one Apache motorcycle and Rs.2 lakh due to which they used to torture her. From the wed-lock of the deceased and the applicant, two daughters were born. On 12.11.2021 the informant received a phone call from the deceased calling him to her house stating therein that she will be dying soon. Subsequently he went to the house of her house where he found her dead.

5. Learned counsel for the applicant argued that although the applicant is the husband of the deceased but has been falsely implicated in the present case. It is further argued that although the doctor in the postmortem report has found two abrasions and one bruise apart from ligature mark on the body of the deceased but the cause of death was opined as asphyxia as a result of ante-mortem hanging. In so far as the abrasions are concerned, one was on the chin and other was on the elbow and the bruise was on the elbow

which did not in any manner contribute to the death of the deceased. The deceased committed suicide and died as she had earlier given birth to two female child by L.S.C.S. procedure and the doctor had advised that now it would be very difficult for her to again give birth to any child as the same would be threat to her life due to which she became frustrated and committed suicide. It is argued that common and general role has been assigned to the applicant and other accused persons. It has also been pointed out that the applicant is not having any criminal history as stated in para 38 of the affidavit and is in jail since 14.11.2021.

6. Per contra learned counsel for the first informant as well as learned counsel for the State vehemently opposed the prayer for bail and argued that the applicant is the husband of the deceased. The deceased died in her matrimonial house within two and half years of marriage which is unnatural and even there is no plausible explanation given by the applicant for the death of his wife. The deceased was found to have received three other injuries on her person, as such bail application be rejected.

7. After hearing the counsel for the parties and perusing the record, it is evident that the applicant is the husband of the deceased. The deceased died within two and half years of marriage in her matrimonial house. There are two abrasions and one bruise apart from the ligature mark on her body. There is no convincing reason given by the applicant who is the husband of the deceased as to why she has committed suicide.

8. Looking to the facts and circumstances of the case, I do not find it a fit case for bail, hence, the bail application is **rejected**.

(Samit Gopal, J.)

Order Date :- 20.11.2023
Gaurav Kuls