

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 17044 of 2022

Applicant :- Nanhe Lal

Opposite Party :- State of U.P.

Counsel for Applicant :- Bikash Kumar Mishra, Anjani Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Anjani Kumar Dubey, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 0637 of 2019, under Sections 498-A, 304-B IPC & 3/4 D.P. Act, Police Station- Kasya, District-Kushinagar, during pendency of the trial in the court below.
3. 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 sister of the informant about 2 years before and after marriage, applicant and his family members tortured her for demand of dowry and due to non fulfilment of demand of dowry, in the night of 14/15.10.2019, applicant and his family members made assault upon her and burnt her and due to that sister of the informant became seriously injured and after receiving information, mother of the informant on 16.10.2019 arrived at the matrimonial home of the sister of the informant and has taken her to her home but during treatment on 20.10.2019 she died.
4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and applicant only being husband of the deceased, has been made accused in the present matter. He further submitted that actually house of the informant is adjacent to the house of the applicant and at the time of incident, deceased was in her paternal home and she sustained burn injury in her paternal home and after the incident, informant side admitted her in the hospital and provided treatment to her and during treatment, she died and after the death of the

sister of the informant, on the basis of false allegation, applicant has been made accused in the present matter. He further submitted that during trial, informant of the case when appeared before the trial court then he did not support the prosecution case and has been declared hostile.

5. He further submitted that applicant is not having any criminal history and he is in jail since 28.12.2020 i.e. for last almost three years.

6. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is the husband of the deceased and there is specific allegation that he used to make demand of dowry and tortured the deceased alongwith his family members and post-mortem report of the deceased suggests that deceased died due to ante-mortem injury, therefore, it appears that it is a case of homicidal death.

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

8. However, applicant is in jail in the present matter for last almost three years but he is the husband of the deceased and his wife died within seven years of her marriage under abnormal circumstances and from the record, it reflects that she died due to ante-mortem injury and as per the allegation, she sustained ante-mortem injury in her matrimonial home and applicant failed to explain the ante-mortem injury sustained by his wife.

9. However, during trial informant of the case was declared hostile but from his statement, it appears that he stated that deceased died due to burn injury but considering the post-mortem report of the deceased, it appears that informant failed to disclose the correct facts before the trial court and it appears that applicant has won over him.

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

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

12. 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.

13. However, considering the fact that applicant is in jail for almost three years, trial court is directed to conclude the trial of the case within a period of **nine months** from the date of production of certified copy of this order in accordance with law, if there is no legal impediment.

Order Date :- 13.12.2023

KK Patel