

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 17646 of 2022

Applicant :- Bhole Nath Agrahari

Opposite Party :- State of U.P.

Counsel for Applicant :- Manoj Kumar

Counsel for Opposite Party :- G.A.,Mohd. Samiuzzaman Khan,Saddam Husain

Hon'ble Sameer Jain,J.

1. Case called out in revised list. None present on behalf of the informant. However, learned AGA for the State is present.
2. Heard Sri Manoj Kumar, learned counsel for the applicant and Sri Ghanshyam Mishra, learned Brief Holder for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 04 of 2021, under Sections 498A, 304B IPC and Section 3/4 D.P. Act, Police Station Nautanwa, District Maharajganj 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 sister of the informant on 07.03.2019 and after marriage applicant and his family members tortured her for Rs. 5 lakhs and Bullet motorcycle and on 02.01.2021 they have committed her murder 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 applicant neither demanded any dowry nor tortured the deceased in any manner.
6. He further submits that although post mortem report of the deceased suggests that deceased died due to coma as a result of ante mortem head injury and as per post mortem report deceased sustained five contusions and two of them were on her head but from perusal of the Panchayatnama, it appears that no visible injury was found on her body and it appears that Panch witnesses noted only ligature mark on his neck, which is

missing in the post mortem report, therefore, there are discrepancies in the injuries of Panchayatnama and post mortem report.

7. He further submits that from the record, it reflects that the dead body of the deceased was recovered after breaking the door and it was hanged with the fan, therefore, from the recovery memo of the dead body, which has been annexed as Annexure-2 to the affidavit and inquest report of the deceased, it appears that it was a case of suicide.

8. He further submits that actually applicant was in private job and on the date of incident he left his house but on the way he received an information that his wife committed suicide. He further submits that actually deceased insisted to go with the applicant but when applicant shown his inability then it appears that she in anger and depression hanged herself. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 05.01.2021 i.e. for more than two and half years.

9. Per contra, learned AGA opposed the prayer for bail and submits that applicant is husband of the deceased and his wife died within seven years of her marriage under abnormal circumstances in her matrimonial home and there is also allegation of demand of dowry. He further submits that post mortem report of the deceased totally belies the defence taken by the applicant and applicant failed to explain the death of the deceased, therefore, applicant should not be released on bail.

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

11. However, from the record it reflects that the dead body of the deceased was recovered after breaking the door and at the time of recovery of dead body it was found that it was hanged from the fan but post mortem report suggests that deceased died due to head injury and post mortem report also shows that deceased sustained five contusions on different parts of the body and two injuries were on her head, therefore, it does not appears to be a case of suicidal death, therefore, prima facie defence taken by the applicant does not appear to be correct one.

12. Further, although, learned counsel for the applicant submits that there is difference in the injury mentioned in the inquest report and post mortem report but from perusal of the Panchayatnama it appears that no visible injury was found and according to post mortem report, the contusions were found on

the body of the deceased including her head, therefore, possibility cannot be ruled out that the Panch witnesses failed to notice the contusion sustained by the deceased. Further, even if there is discrepancy in injuries in the Panchayatnama and post mortem report then it can only be properly ascertained by the trial court during trial.

13. As, applicant is husband of the deceased and his wife died due to head injury, therefore, I am not inclined to enlarge the applicant on bail.

14. Accordingly, the instant bail application is rejected.

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.

16. However, considering the fact that applicant is in jail for more than two and half 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 strictly under the provisions of Section 309 Cr.P.C., if there is no legal impediment.

Order Date :- 6.11.2023

AK Pandey