Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 19472 of 2021

Applicant :- Deepak
Opposite Party :- State of U.P.
Counsel for Applicant :- Radhey Shyam Yadav,Rajeev Upadhyay,Ramesh Kumar Sahu,Sunil Vashisth
Counsel for Opposite Party :- G.A.,Gyan Prakash,Ram Kumar Gautam

Hon'ble Sameer Jain,J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.

2. Heard Sri Rajeev UPadhyay, learned counsel for the applicant, Sri Gyan Prakash, learned counsel for the informant and Sri Santosh Nigam, learned AGA for the State-respondent.

3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 82 of 2020, under Sections 498-A, 304-B IPC & 3/4 D.P. Act, Police Station- Jasrathpur, District- Etah, during pendency of the trial in the court below.

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 deceased about two years before and after marriage, applicant and his family members tortured her for demand of dowry. It is further mentioned in the FIR that with the wedlock of applicant and deceased a child was born and on 26.04.2020 informant received an information that applicant and his family ablazed his daughter i.e. deceased.

5. 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. He further submitted that actually deceased accidentally sustained burn injury while she was cooking food and in the incident her five months' old child also sustained burn injury and immediately after the incident, applicant and his family members taken her to the hospital, where doctor declared her dead.

6. He further submitted that although, applicant himself gave information to the informant with regard to the present incident but subsequently informant lodged the FIR of the present case on the basis of false allegation of demand of dowry and torture. He further submitted that during trial, informant of the case has been declared hostile.

7. He further submitted that applicant is not having any criminal history and he is in jail since 29.06.2020 i.e. for more than three years.

8. Learned counsel for the informant also conceded the fact that informant has been declared hostile and he is having no objection if the applicant be enlarged on bail.

9. Per contra, learned AGA opposed the prayer for bail and submitted that wife of the applicant died within two years of her marriage due to burn injury and there is also allegation of demand of dowry and although, as per the applicant, deceased died accidentally while she was cooking food but from the testimony of P.W. 1, which was recorded by the trial court, it appears that according to him, deceased committed suicide by ablazing herself and this fact clearly suggests that applicant and informant both are suppressing the correct facts and applicant has won over the informant.

10. He further submitted that in the charge-sheet there are number of other witnesses of fact too and till date, only informant could be examined, therefore, merely on the basis of incarceration of three years and the fact that informant has been declared hostile, it would not be proper to release the applicant on bail.

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

12. However, from the record, it reflects that informant, who lodged the FIR of the present case, has turned hostile during trial but in the charge sheet there are other family members of the deceased as witnesses and till date, they could not appeared before the trial court.

13. Further, there are material differences between the defence taken by the applicant and statement of the informant recorded before the trial court with regard to manner of incident.

14. Further, applicant is the husband of the deceased and his wife

died due to burn injury within two years of her marriage and no evidence could be bring on record, which can show that after the incident, applicant has taken the deceased to the hospital, where she was declared dead, therefore, I am not inclined to release the applicant on bail.

15. Accordingly, the instant bail application is **rejected**.

16. 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.

17. However, considering the fact that applicant is in jail for more than three years, trial court is directed to conclude the trial of the case within a period of eight months from the date of production of certified copy of this order, strictly as per the provisions of Section 309 Cr.P.C. on day-to-day basis without granting any unnecessary adjournment to either of the parties, if there is no legal impediment.

18. It will be open for the applicant to renew his prayer for bail after a stipulated period of eight months, if trial of the case is not concluded, subject to the condition that all the witnesses of fact would have already been examined and applicant did not cause any delay.

Order Date :- 30.10.2023

KK Patel

Digitally signed by :-
KRISHN KANT PATEL
High Court of Judicature at Allahabad