

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 21545 of 2022

Applicant :- Ajay Sikarwar

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Dubey, Ajay Kumar Yadav, Vishvendra Singh

Counsel for Opposite Party :- G.A.

Hon'ble Dr. Gautam Chowdhary, J.

1. Supplementary affidavit filed today by the learned counsel for the applicant is taken on record.

2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

3. Learned counsel for the applicant submits that applicant is husband of the deceased and has falsely been implicated in the case. Learned counsel for the applicant further submits that though there is allegation against the applicant and his entire family members for committing murder of the deceased within one year of her marriage by hanging on account of non fulfillment of additional demand of dowry and cruelty meted to the deceased in the F.I.R. and though in the postmortem report of the deceased her cause of death was found to be asphyxia due to ante mortem hanging, but mother of the deceased, namely, Usha who was examined as P.W.1 before the trial court, which statement has been filed as Annexure-SA.-1 to the supplementary affidavit filed today, has stated that quarrel used to take place between the applicant and the deceased because of hiding of knowledge of first marriage of the applicant to the deceased and it is wrong to say that in-laws of her daughter had ever made demand of additional dowry, thus, P.W.1 has not supported the prosecution case. Learned counsel for the applicant further submits that there are total 28 witnesses and out of 7 prosecution witnesses, only 3 witnesses have been examined till date, there is no chance of tampering with the evidence and the applicant is in jail since 05.04.2021. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been

mentioned. It has also been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. It is further contended by learned counsel for the applicant that the applicant is languishing in jail since 05.04.2021, having no criminal history.

4. Learned A.G.A. for the State could not satisfactorily dispute the aforesaid submissions made by the learned counsel for the applicant.

5. After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

6. Let the applicant-**Ajay Sikarwar**, involved in Case Crime No. 104 of 2021, under Sections 498-A, 304-B I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station Etmadpur, District Agra, be enlarged on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

i) The applicant will not tamper with prosecution evidence and will not harm or harass the complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 229-A IPC.

7. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

8. The bail application is **allowed**.

Order Date :- 24.11.2023

Mustaqeem.