

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 21669 of 2020

Applicant :- Manoj

Opposite Party :- State of U.P.

Counsel for Applicant :- Sitaram Yadav, Jitendra Singh

Counsel for Opposite Party :- G.A., Vinod Kumar Yadav

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 Smt. Beena Mishra, learned counsel appearing on behalf of the applicant, who was appointed on previous date to assist the Court from the panel list of High Court Legal Services Committee and Sri R.N. Srivastava, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 399 of 2017, under Sections 498A, 304B, 302 IPC and Section 3/4 D.P. Act, Police Station Ghosi, District Mau during pendency of the trial.
4. FIR of the present case was lodged on 14.05.2017 against applicant and according to the FIR marriage of the applicant was performed with the daughter of the informant in the month of April, 2014 and after marriage applicant tortured her for dowry and on 14.05.2017 informant received an information that his daughter has sustained burn injury. It is further mentioned in the FIR that informant after receiving information when arrived at matrimonial home of his daughter then found that his daughter has died.
5. Learned counsel for the applicant submitted that applicant is 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. She further submits that actually deceased sustained burn injury accidentally while she was cooking food and immediately after the incident applicant informed the informant and after receiving information, informant arrived at his home but subsequently lodged FIR of the present case on the basis of false

allegation of torture in respect of demand of dowry.

6. She further submits that there is no specific demand of dowry was disclosed in the FIR however in the statement recorded under Section 161 Cr.P.C. informant stated that there was demand of motorcycle and this fact clearly suggests that subsequently a new story has been developed by the informant and in fact there was no demand of dowry.

7. She further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 15.05.2017 i.e. for more than six and half years and even till date trial of the case could not be concluded, therefore, it appears that trial of the case is moving with languid pace and there is no hope of its early disposal.

8. 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 in her matrimonial home and there is also allegation of demand of dowry but could not dispute the fact that in the FIR there was no specific allegation of demand of dowry could be disclosed and applicant in the present matter is in jail since 15.05.2017 i.e. for more than six and half years.

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

10. However, applicant is husband of the deceased and his wife died within seven years of her marriage in her matrimonial home due to burn injury and there is also allegation of demand of dowry but from the FIR, it reflects that only vague allegation of demand of dowry was made and no specific demand of dowry was disclosed however, in the statement recorded under Section 161 Cr.P.C. informant disclosed that there was demand of motorcycle.

11. Further, from the record it also reflects that applicant in the present matter is in jail since 15.05.2017 i.e. for more than six and half years, therefore, it appears that he had already served almost minimum sentence of seven years provided under Section 304B IPC.

12. Therefore, considering the facts and circumstances of the case, particularly long incarceration of applicant of more than six and half years, in my view, applicant is entitled to be released on bail.

13. Accordingly, without expressing any opinion on the merits of

the case, the instant bail application is **allowed**.

14. Let the applicant - **Manoj** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

15. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

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.

Order Date :- 8.12.2023

AK Pandey