

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 19113 of 2023

Applicant :- Vedprakash

Opposite Party :- State of U.P.

Counsel for Applicant :- Bharat Singh, Amit Kumar Srivastava

Counsel for Opposite Party :- G.A., Ravi Shankar Tripathi

Hon'ble Dr. Gautam Chowdhary, J.

1. Counter affidavit filed by learned counsel for the informant, today in the Court is taken on record. Heard learned counsel for the applicant, learned A.G.A. for the State, learned counsel for the informant and perused the material on record.

2. Learned counsel for the applicant contends that the applicant has been falsely implicated in the instant case. The applicant is the brother-in-law of the deceased. The applicant never demanded dowry or did he torture the deceased. In fact, the applicant never interfered in the domestic life of the deceased and her husband. The applicant is bereaved by the death of his sister-in-law and prays for peace of the departed soul. However, for the purpose of the bail application, it is submitted that the applicant is not involved in any manner and that the deceased had hanged herself and in this regard, learned counsel has drawn attention of this Court to Panchayatnama wherein it has been stated that on information, the Incharge Inspector as well as Inspector went to the place of occurrence and found that the door of the deceased room was closed, which itself demonstrate that the deceased has committed suicide in a fit of rage. The cause of death recorded in the post mortem report is asphyxia due to ante mortem hanging. The hyoid bone was found to be intact. The applicant did not abet or instigate the deceased to commit the suicide. The applicant does not have any criminal history apart from the instant case. The applicant is a old aged person, who resides in Badaun with his family. The applicant is not a flight risk. The applicant is a law abiding citizen who has cooperated with the police investigation

and shall join the trial proceeding. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending. The applicant is languishing in jail since 20.02.2023.

3. Learned AGA for the State could not satisfactorily dispute the aforesaid submissions from the record, whereas, the learned counsel for the informant has submitted that the applicant had earlier also tried to commit sexual assault with the deceased and in this regard, a first information report was lodged in Case Crime No. 314 of 2020.

4. In reply to aforesaid submissions, learned counsel for the applicant has contended that the F.I.R. in Case Crime No. 314 of 2020 was lodged under Sections 498A I.P.C. and Section 3/4 of Dowry Prohibition Act only and in the entire prosecution story there is not even a whisper of sexual assault or molestation against the applicant, thus the submissions of learned counsel for the informant has no force.

4. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties, nature of evidence, and all attending facts and circumstances of the case, without expressing any opinion on merits of the case, this Court is of the view that the applicant has made out a case for bail. Hence the bail application is allowed.

5. Let applicant **Ved Prakash** involved in Case Crime No.47 of 2023 under Sections 498A, 304-B I.P.C., and Section 3/4 of Dowry Prohibition Act, Police Station Wazeerganj, District Badaun, be released 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 shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence and 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.

II. The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

III. In case, the applicant misuses the liberty of bail and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the 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 of the Indian Penal Code.

IV. The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law.

6. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

7. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 3.11.2023

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