

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 23265 of 2023

Applicant :- Satyaveer @ Sachin

Opposite Party :- State of U.P.

Counsel for Applicant :- Piyush Kumar Tripathi, Rudra Pratap Pandey, Vidhu Bhushan Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Vidhu Bhushan Singh, learned counsel for the applicant and Sri Ghanshyam Mishra, learned Brief Holder for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 332 of 2018, under Sections 498A, 304B IPC and Section 3/4 D.P. Act, Police Station Kurra, District Mainpuri during pendency of the trial.

3. Learned counsel for the applicant submitted that this is second bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed by the co-ordinate Bench of this Court vide order dated 16.08.2022 passed in Criminal Misc. Bail Application No. 1904 of 2022 and he is pressing the instant second bail application on the ground that applicant is husband and there is dying declaration of his wife and in the dying declaration she categorically stated that applicant caught hold her and her mother-in-law, namely Meena Devi set her on fire and mother-in-law of the deceased has already been released on bail by the co-ordinate Bench of this Court vide order dated 25.11.2021 passed in Criminal Misc. Bail Application No. 47721 of 2020 and case of applicant is even on better footing than the case of mother-in-law of the deceased.

4. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 30.11.2018 i.e. for more than five years and till date trial of the case could not be

concluded and out of 24 prosecution witnesses only 9 prosecution witnesses could be examined, therefore, considering the facts and circumstances of the case, applicant, who is although husband of the deceased, may also be enlarged on bail.

5. Per contra, learned AGA opposed the prayer for bail and submits that there is dying declaration of the deceased recorded by the Tehsildar on record and from its perusal it appears that applicant actively participated in the instant crime and he caught hold the deceased and thereafter her mother ablated her and although his mother has been released on bail by the co-ordinate Bench of this Court but from the perusal of bail granting order dated 25.11.2021, it appears that at the time of granting bail to her, the fact of dying declaration could not be placed, therefore, no parity of bail order of co-accused Meena Devi can be extended in favour of the applicant.

6. Learned AGA further submits that applicant is husband of the deceased and as there is dying declaration of the deceased on record, therefore, merely on the ground of long incarceration of more than five years, applicant should not be released on bail.

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

8. However, applicant is in jail for more than five years and his mother i.e. co-accused Meena Devi, who is mother-in-law of the deceased has already been released on bail and in the dying declaration of the deceased recorded by the Tehsildar there is allegation that applicant caught hold the deceased and thereafter his mother i.e. mother-in-law of the deceased ablated the deceased but from perusal of the bail granting order of mother-in-law dated 25.11.2021 passed by the co-ordinate Bench of this Court, it appears that at the time of granting bail, the fact with regard to dying declaration did not place before this Court, therefore, I am in agreement with the argument advanced by learned AGA that applicant cannot seek parity of bail granting order of mother-in-law Meena Devi.

9. As, applicant is husband of the deceased and there is dying declaration of the deceased on record, which was recorded by the Tehsildar and from the dying declaration of the deceased it reflects

that applicant actively participated in the crime, therefore, considering the facts and circumstances, I am not inclined to release the applicant on bail.

10. Accordingly, the instant bail application is rejected.

11. 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.

12. However, considering the fact that applicant is in jail for more than five 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 as per provision of Section 309 Cr.P.C. on day-to-day basis without granting any unnecessary adjournments to either of the parties, if there is no legal impediment.

Order Date :- 30.10.2023

AK Pandey