

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 28005 of 2022

Applicant :- Pankaj

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Munesh Kumar, Abhilasha Singh, Ashutosh Yadav, Shyam Lal

Counsel for Opposite Party :- G.A., Biswajeet Mukherjee

Hon'ble Sameer Jain, J.

1. None appeared on behalf of the informant even in revised call.
2. Heard Ms. Abhilasha Singh, learned counsel for the applicant and Brijesh Pratap Singh, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No.89 of 2022, under Sections 498-A, 304-B IPC & Sections 3/4 D.P. Act, Police Station Junabai, District Sambhal, during pendency of the trial in the court below.
4. FIR of the present case was lodged on 19.04.2022 against applicant and his family members and according to the FIR, marriage of the applicant was performed with the daughter of the informant on 07.05.2021 and after solemnization of the marriage, applicant and his family members started torturing her for a Bolero Car and on 16.04.2022 at about 8:30 in the morning informant received an information from her daughter that applicant and his family members are assaulting her and after sometime, he received an information that his daughter

hang herself.

5. Learned counsel for the applicant submits 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 and on the date of incident i.e. 16.04.2022, he was not at home and he had gone to doctor alongwith his mother for her treatment and this fact is even evident from the statement of independent witnesses i.e. neighbour of the applicant recorded by the Investigation Officer during investigation.

6. She further submits that the statements of independent witnesses have been annexed alongwith the supplementary affidavit filed in support of the instant bail application.

7. She further submits that even informant and other witnesses of facts when appeared before the trial court then they did not support the prosecution case and have been declared hostile but she fairly conceded that till date neighbours of the applicant, who stated that at the time of incident applicant was not present at home, could not be examined by the trial court.

8. She further submits that as per autopsy report, she died due to strangulation but actually it is a case of suicidal death and deceased committed suicide as she used to remain in depression.

9. She further submits that applicant is not having any criminal history and he is in jail in the present matter since 17.05.2022 i.e. for last more than one and a half years.

10. Per contra, learned AGA opposed the prayer for bail and

submit that applicant is husband of the deceased and his wife died within one year of her marriage under abnormal circumstances in her matrimonial home and there is also demand of dowry and torture. He further submits that post-mortem report of the deceased suggests that it is a case of homicidal death and deceased died due to strangulation and applicant has taken a false plea that she committed suicide and this fact clearly suggests that applicant has not come with clean hands and tried to conceal the correct facts of the case and therefore, he should not be released on bail.

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

12. Applicant is husband of the deceased and his wife died within one year of her marriage under abnormal circumstances in her matrimonial home and there is also demand of dowry and torture. However, some independent witnesses stated to the Investigating Officer, who are neighbours of the applicant that at the time of incident applicant was not at home as he had gone alongwith his mother for his treatment to the clinic of a doctor but it is not the case of the applicant that in his absence his wife was murdered rather the case of applicant is that she committed suicide, therefore, no benefit can be extended to the applicant, who is husband of the deceased, who has taken a false plea and further till date the alleged neighbours of the applicant could not be examined by the trial court.

13. Further, however during trial informant and other family members of the deceased when appeared before the trial court

then they did not support the prosecution case and have declared hostile but it is a case of homicidal death therefore it hardly matters if informant and others were declared hostile.

14. Therefore, considering the facts and circumstances, discussed above, I am not inclined to release the applicant on bail at this stage accordingly the instant bail application filed by the applicant, who is husband of the deceased is **rejected**.

Order Date :- 1.12.2023

Zafar