

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 31786 of 2021

Applicant :- Anurag Mishra

Opposite Party :- State of U.P.

Counsel for Applicant :- Ramesh Kumar Shukla, Vindhya Vashini Prasad Rai

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Ramesh Kumar Shukla,, learned counsel for the applicant and Dr. S. B. Maurya, learned AGA-I for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 204 of 2020, under Sections 498A, 304B IPC & 3/4 D.P. Act, Police Station Sadh, District Kanpur Nagar, during pendency of the trial in the court below.
4. FIR of the present case was lodged against the applicant and his family members and according to the FIR marriage of the applicant was performed with the deceased in the year 2017 and after marriage applicant and his family members tortured her for a car.
5. It is further mentioned in the FIR that on 23.8.2020 applicant and his family members set the deceased on fire.
6. 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 along with his other family members.
7. He further submitted that actually deceased was very bad behavioral lady and she failed to discharge her matrimonial duties and she very often made assault upon her in-laws and in this regard, her in laws also filed an NCR against her, copy of which is annexed as annexure -3 to the affidavit.

8. He further submitted that due to the bad conduct of the deceased applicant in the year 2019 has filed a divorce petition no. 65 of 2019 which has been annexed as annexure-5 to the affidavit and due to her obstinate nature and dispute between husband and wife she herself committed suicide by pouring kerosene oil upon her.

9. He further submitted that applicant is in jail in the present matter since 17.9.2020 i.e. for more than three years and till date, only one prosecution witness could be examined out of total 27 prosecution witnesses.

10. He further submitted that trial of the case is moving with languid pace and there is no hope of its early disposal.

11. He further submitted that applicant is having no previous criminal history.

12. Per contra, learned AGA opposed the prayer for bail and submitted that wife of the applicant died due to burn injury within three years of her marriage in her matrimonial home and there is also demand of dowry but could not dispute the fact that in the year 2019 applicant has filed a divorce petition and even before the death of the deceased her father in law filed a NCR against her.

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

14. However, applicant is husband of the deceased and she died due to burn injuries within three years of her marriage in her matrimonial home and there is also allegation of demand of dowry but from the record it reflects that the relationship between applicant and deceased were not cordial one and in the year 2019 applicant has filed a divorce petition under section 13 of Hindu Marriage Act and against the deceased his father in law lodged an NCR against her.

15. Further, applicant is in jail in the present matter for last three years and till date out of total 27 prosecution witnesses only one prosecution witness could be examined.

16. Therefore, considering the facts and circumstances of the case, discussed above, particularly the long incarceration of applicant of more than three years, in my view, applicant is entitled to be released on bail.

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

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

18. Let the applicant-**Anurag Mishra**, 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.

19. 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.

20. 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 :- 9.11.2023

Ankita