

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 34618 of 2020

Applicant :- Jaiveer

Opposite Party :- State of U.P.

Counsel for Applicant :- Om Narayan Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Smt. Mamta Singh, learned counsel appearing on behalf of the applicant appointed by this Court from the panel list of the High Court Legal Services Committee and Sri R.N. Srivastava, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 09 of 2019, S.T. No.182 of 2019, under Sections 302 IPC, Police Station Tilhar, District Shahjahanpur during pendency of the trial.

3. FIR of the present case was lodged against applicant and four others and according to the FIR marriage of the younger brother of the applicant was performed with the deceased about six years before and after marriage applicant and his family members tortured her for want of dowry and on 31.12.2018 they have committed her murder by ablazing her.

4. Learned counsel for the applicant submitted that applicant is Jeth of the deceased and on the basis of false allegation, he has been made accused in the present matter. She further submits that however on record there is dying declaration of the deceased recorded by Sri Kamal Swaroop, Naib Tehsildar, Sadar, District Shahjahanpur and Sri Kamal Swaroop, Naib Tehsildar also conducted the Panchayatnama but in his statement recorded during investigation he did not disclose that he ever recorded the dying declaration of the deceased.

6. She further submits that applicant is 50% disabled person and he is in jail since 06.02.2019 i.e. for more than four and half years, therefore, he may be released on bail.

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

submitted that there is dying declaration of the deceased recorded by the Naib Tehsildar and in the dying declaration she specifically stated that applicant and his wife abused her. He further submits that bail application of Indrakala, the wife of applicant, has already been rejected by this Court vide order dated 25.07.2023 passed in Criminal Misc. Bail Application No. 8673 of 2020, therefore, applicant should not be released on bail.

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

9. However, applicant is Jeth of the deceased but there is dying declaration of the deceased on record recorded by Naib Tehsildar and in the dying declaration deceased categorically stated that applicant and his wife abused her, therefore, I am not inclined to release the applicant on bail.

10. Accordingly, without expressing any opinion on the merits of the case, 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.

Order Date :- 8.12.2023

AK Pandey