

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 21823 of 2018

Applicant :- Punwasi

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajesh Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Rejoinder affidavit and supplementary affidavit filed on behalf of the applicant is taken on record.
2. From the record, it reflects that applicant shown his inability to engage a private counsel and therefore on his request on 3.11.2023, Sri Shivam Yadav, Advocate was appointed as a counsel for the applicant as he is a panel lawyer of High Court Legal Services Committee. But today, Sri Ramesh Rai and Sri Arvind Kumar Singh, counsels appeared on behalf of the applicant and submit that applicant has engaged them.
3. In view of the above, the appointment of Sri Shivam Yadav made vide order 3.11.2023 is hereby discharged.
4. Heard Sri Ramesh Rai, learned counsel for the applicant and Sri Ravi Kant Kushwaha, learned AGA for the State.
5. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 148 of 2017, under Sections 498-A, 304-B IPC and 3/4 Dowry Prohibition Act, Police Station Tarwan, District Azamgarh during pendency of the trial.
6. FIR of the present case was lodged on 1.8.2017 against applicant and according to the FIR marriage of the niece of the informant was performed with the applicant in the year 2015 and

after marriage applicant started torturing her for dowry and in the intervening night of 31.7.2017 applicant committed the murder of the niece of the informant by strangulating her.

7. Learned counsel for the applicant submits that applicant is husband of the deceased and on the basis of false allegation of demand of dowry he has been made accused in the present matter.

8. He further submits that applicant is in jail in the present matter since 3.8.2017 i.e. for last more than six years but till date trial of the case could not be concluded.

9. He further submits that all the witnesses of fact have already been examined by the trial court and they did not support the prosecution case and therefore considering the long incarceration of the applicant and the fact that all the witnesses of fact have already turned hostile, applicant may be enlarged on bail.

10. Per contra, learned AGA opposed the prayer for bail and submits that applicant is husband of the deceased and his wife died due to throttling and therefore it is a case of homicidal death and applicant miserably failed to explained homicidal death of his wife and therefore it is not proper to release him on bail merely on the ground of long incarceration of six years.

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

12. However applicant is in jail in the present matter since 3.8.2017 i.e. for last more than six years but applicant is the husband of the deceased and post-mortem report suggests that she died due to throttling. Therefore, it appears to be a case of homicidal death and applicant failed to explain the murder of his wife. Therefore, I am not inclined to release the applicant on bail.

13. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be

released on bail and instant bail application is rejected.

14. However, considering the fact that applicant is in jail for more than six years, trial court is directed to conclude the trial of the case within nine months from the date of production of certified copy of this order strictly as per the provision of Section 309 Cr.P.C. on day to day basis without granting unnecessary adjournment to either of the parties, if there is no legal impediment.

Order Date :- 28.11.2023

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