

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 30770 of 2022

Applicant :- Indra Pal

Opposite Party :- State of U.P.

Counsel for Applicant :- Bhishm Pal Singh

Counsel for Opposite Party :- G.A.,Priyanka Sharma,Satya Narayan Yadav

Hon'ble Sameer Jain,J.

1. Case called out in revised list. None present on behalf of the informant. However, learned AGA for the State is present.
2. Supplementary affidavit filed today on behalf of the applicant is taken on record.
3. Heard Sri Bhishm Pal Singh, learned counsel for the applicant and Dr. S.B. Maurya, learned AGA-I for the State.
4. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 0241 of 2020, under Sections 498A, 304B IPC and Section 3/4 D.P. Act, Police Station Tundla, District Firozabad during pendency of the trial.
5. FIR of the present case was lodged against applicant and his family members and according to the FIR marriage of the applicant was solemnized with the daughter of the informant on 01.05.2015 and after marriage applicant and his family members tortured her for Rs. 2 lakhs and on 01.05.2020 informant received an information that his daughter has died. It is further mentioned in the FIR that when he arrived at spot then found that his daughter was lying in burnt condition.
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.
7. He further submits that however deceased died due to burn

injury but actually she committed suicide as some dispute arose between informant and deceased after the suicidal death of her cousin sister-in-law.

8. He further submits that applicant in the present matter is in jail since 01.06.2020 i.e. for last about three and half years and even till date cross examination of PW-1 could not be completed as he is not appearing before the trial court.

9. He further submits that from the order-sheet, which has been annexed along with supplementary affidavit, it reflects that examination-in-chief of PW-1 was completed on 02.08.2022 and as on that date his cross-examination could not be completed, therefore, next date was fixed but since 02.08.2022 he did not appear before the trial court and this fact is evident from the order-sheet.

10. He further submits that it appears that trial of the case is moving with languid pace and applicant, who is in jail is having no role to play in delaying in trial. He further submits that from the order-sheet of the case, it reflects that there is violation of fundamental right of speedy trial of an accused, therefore, considering the delay in trial and long incarceration of the applicant of about three and half years, he should be released on bail.

11. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is husband of the deceased and his wife died within seven years of her marriage in her matrimonial home due to burn injury and there is also allegation of demand of dowry but could not dispute the fact that applicant in the present matter is in jail since 01.06.2020 i.e. for last about three and half years and till date even cross-examination of PW-1 could not be completed and PW-1 is not appearing before the trial court since August, 2022 i.e. for last more than a year.

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

13. However, applicant is husband of the deceased and his wife died within seven years of her marriage in her matrimonial home due to burn injury and there is also demand of dowry but it reflects that applicant is detained in jail since 01.06.2020 i.e. for last about

three and half years and trial of the case is moving with languid pace and there is no hope of its early disposal.

14. From the order-sheet of the case, which has been filed by the applicant along with supplementary affidavit, it reflects that examination-in-chief of PW-1 was completed on 02.08.2022 and thereafter he failed to appear before the trial court and it appears that for last more than a year he is not appearing before the trial court.

15. The Apex Court in the case of **Union of India Vs. K.A. Najeeb (2021) 3 SCC 713** categorically observed that if there is violation of fundamental right of speedy trial of an accused, then accused may be enlarged on bail.

16. Therefore, considering the facts and circumstances of the case, particularly the fact that applicant is in jail since 01.06.2020 i.e. for last about three and half years and trial of the case is moving with languid pace without any fault of the applicant and there is no hope of early disposal of the same, 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 - **Indra Pal** 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 :- 6.12.2023

AK Pandey