

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39481 of 2021

Applicant :- Nand Lal Sharma

Opposite Party :- State Of U.P And Another

Counsel for Applicant :- Vijay Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Vijay Kumar Mishra, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 253 of 2019, under Sections 304, 498-A IPC, Police Station- Kubersthan, District- Kushinagar, during pendency of the trial in the court below.
3. Learned counsel for the applicant submitted that this is the second bail application filed on behalf of the applicant and his first bail application was dismissed on merit by this Court on 21.01.2021.
4. He further submitted that after rejection of the first bail application of the applicant, when informant of the case appeared before the trial court then he did not support the prosecution case and applicant is although, husband of the deceased but he is in jail since 27.12.2019 i.e. for last almost four years, therefore, considering the delay in trial and long incarceration of the applicant, he should be released on bail.
5. Per contra, learned AGA opposed the prayer for bail and submitted that this is the second bail application of the applicant and his first bail application was dismissed on merit by this Court and applicant is the husband of the deceased and there is also dying declaration of the deceased on record and according to it, applicant ablated the deceased, therefore, it would not be proper to release the applicant on bail merely on the ground that he is in jail for last almost four years. However, he suggested that trial court may be directed to conclude the trial of the case within a stipulated period of time.

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

7. This is the second bail application filed on behalf of the applicant and his first bail application has been dismissed on merit.

8. However, applicant is in jail since December, 2019 i.e. for last almost four years but he is the husband of the deceased and there is dying declaration of the deceased on record, which was produced by the learned AGA during the course of argument and from its perusal, it appears that allegation against applicant is that he ablated the deceased and post-mortem report also corroborates her allegation, therefore, I am not inclined to release the applicant on bail.

9. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **rejected**.

10. 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.

11. However, considering the fact that applicant is in jail for almost four years, trial court is directed to conclude the trial of the case within a period of **nine months** from the date of production of certified copy of this order, strictly as per the provisions of Section 309 Cr.P.C., if there is no legal impediment.

Order Date :- 13.12.2023
KK Patel