

Court No. - 91

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 26137 of 2023

Applicant :- Mahaveer

Opposite Party :- State of U.P.

Counsel for Applicant :- Umesh Chandra Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

Heard learned counsel for the applicant as well as learned Additional Government Advocate for the State of U.P. and perused the record.

The present bail application has been filed by the applicant seeking bail in Case Crime No.234 of 2022, under Sections 498-A, 307, 323, 325, 506 of IPC and 3/4 Dowry Prohibition Act, Police Station- Usahait, District- Budaun.

As per the prosecution story, on 24.08.2022 the informant had lodged the first information report against the applicant and other co-accused persons with the allegations that they tried to kill her daughter by throwing her from the roof on 01.08.2022 due to which she sustained grievous injuries.

Learned counsel for the applicant has argued that the applicant is innocent and has been falsely implicated in the present case due to ulterior motive. It is submitted by learned counsel for the applicant that applicant is the husband of the victim. In this case on false and frivolous allegations FIR has been lodged implicating him and role has been assigned to the effect that along with his brother he has thrown the victim (his wife) from the roof of the house and resultantly she sustained injuries. It is further submitted that the devar has already been granted bail by this court vide order dated 12.12.2022 in Criminal Misc. Bail Application No.55440 of 2022. Contention is that the victim has sustained injuries at her mother's house as it is clear from the record the medical examination of the victim took place after 25 days of the alleged incident. The main submission of learned counsel for the applicant is that wife/ victim of the applicant has abandoned her 2 years old daughter and she is living with the mother of the applicant who is aged and weak lady of 70 years. Submission is that there is no one other than the

applicant to look after his daughter. It is further stated that there is no criminal history of the applicant except the present case. There is no prospect of trial of the present case being concluded in near future due to heavy dockets. It is also submitted that there is no apprehension that after being released on bail, he may flee from the course of law or may, otherwise, misuse the liberty of bail and the applicant is in jail since 01.05.2023 and the possibility of conclusion of trial in near future is very bleak.

Learned A.G.A. has vehemently opposed the prayer for grant of bail, but he has not disputed the above contention made by the learned counsel for the applicant.

From perusal of the record, it appears that applicant is the husband of the victim. The medical examination was done after 25 days of the alleged incident. The applicant has no criminal history.

Considering the facts and circumstances of the case, perusing the record and also considering the nature of allegations, arguments advanced by the learned counsel for the parties and without expressing any opinion on the merit of the case, I find it to be a fit case for granting bail.

Let the applicant, **Mahaveer**, involved in above mentioned case crime number be released on bail on their executing a personal bond and two reliable sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:

- (i) The applicant shall not tamper with the evidence.
- (ii) The applicant shall not indulge in any criminal activity.
- (iii) The applicant shall not threaten the informant and witnesses and further shall cooperate in the investigation.
- (iv) The applicant will appear regularly on each and every date fixed by the trial court unless his personal appearance is exempted through counsel by the court concerned.

In the event of breach of any of the aforesaid conditions, the learned court below will take recourse to law of cancellation of bail of the applicant.

Order Date :- 1.11.2023
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