

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 28929 of 2023

Applicant :- Dharamveer

Opposite Party :- State of U.P.

Counsel for Applicant :- Prabhat Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Dr. Gautam Chowdhary,J.

1. Heard learned counsel for the applicant, learned A.G.A for the State and perused the record.

2. Learned counsel for the applicant submits that the applicant is husband of the deceased, he is innocent and has been falsely implicated in the present case. Learned counsel further submits that F.I.R. was lodged by the complainant against the applicant and his other family members with the allegation that he had solemnize marriage of his daughter with the applicant about five years ago, at the time of marriage sufficient dowry was given but in-laws of her daughter were not satisfied with the same and used to make demand of additional dowry in the form of a motorcycle and LCD television, and ultimately on 23.09.2021 he has been informed that his daughter is no more and he suspects that her in-laws have murdered her on account of non fulfillment of demand of additional dowry. Learned counsel for the applicant further submits that in her statement recorded under Section 161 Cr.P.C. the mother of the deceased supported the prosecution case. Learned counsel for the applicant further submits after inquest proceedings, postmortem of the deceased was conducted, wherein except one ligature mark all around the neck no other injury was found on the person of the deceased and her cause of death was found to be asphyxia as a result of ante mortem hanging. Learned counsel for the applicant further submits that the deceased left her matrimonial house and went to her parental house in August, 2017 and thereafter she moved an application under Section 125 Cr.P.C. before the court concerned, wherein after counseling by the court below the deceased agreed to live with her husband and thereafter she went to her matrimonial house in pursuance of the order passed by the Family Court on 29.09.2020. Learned counsel for the applicant further submits that deceased was a short tempered lady and she committed suicide over a trivial issue, there is no any

allegation that applicant or his other family members were used to make demand of additional dowry after 29.09.2020, nor there is any allegation that the deceased was being ill treated or being harassed for non fulfillment thereof and only general allegations have been made against the applicant and his family members for committing the murder of the deceased and no specific allegation has been made against any of the accused persons. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. He next submits that applicant is languishing in jail since 06.05.2021, having no criminal history.

3. Per contra, learned A.G.A. has opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence.

4. After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, without expressing any opinion on merits of the case, this Court is of the view, that the applicant may be enlarged on bail.

5. Let applicant-**Dharamveer**, involved in Case Crime No. 0122 of 2021, under Sections 498-A, 304-B I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station Saharwar, District Kasganj, be enlarged on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

(i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

(ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 229-A IPC.

6. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail in accordance with law.

7. The bail application is **allowed**.

Order Date :- 16.11.2023

Mustaqeem.