

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 37816 of 2022

Applicant :- Devendra Chauhan @ Ankur Chauhan

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajai Kumar Singh

Counsel for Opposite Party :- G.A.,Sunil Kumar Singh

Hon'ble Sameer Jain,J.

1. Supplementary affidavit filed today on behalf of the applicant in Cour is taken on record.
2. Heard Shri Ajai Kumar Singh, learned counsel for the applicant, Shri Pradeep Kumar, learned AGA for the State-respondent and Shri Pawan Kumar Patel, Advocate holding brief of Shri Sunil Kumar Singh, learned counsel for the informant.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No.994 of 2021, under Sections 498-A, 304-B IPC & Sections 3/4 D.P. Act, Police Station Majhola, District Moradabad, during pendency of the trial in the court below.
4. FIR of the present case was lodged on 10.11.2021 against applicant and his family members and according to the FIR, marriage of the applicant was performed with the daughter of the informant on 22.05.2017 and after solemnization of the marriage, applicant and his family members started torturing her for additional demand of of Rs.5,00,000/- and on 09.11.2021 informant received an information that his daughter has died. It is further mentioned in the FIR that due to non-fulfilment of demand of dowry, applicant and his family members committed her murder.

5. Learned counsel for the applicant submits 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.

6. He further submits that actually deceased was a short-tampered lady and only due to this reason, in anger on small matrimonial issue, she committed suicide by hanging herself.

7. He further submits that even post-mortem report of the deceased suggests that she died due to hanging.

8. He further submits that applicant is not having any criminal history and he is in jail in the present matter since 11.11.2021 i.e. for last more than two years and till date the statement of P.W.-1 i.e. informant of the case could not be concluded and however his examination-in-chief was recorded on 18.04.2023 but thereafter, he did not turn up and even on 12.07.2023 trial court had to issue bailable warrants against him and this fact is evident from the order-sheet of trial court, which has been annexed alongwith supplementary affidavit filed today.

9. He further submits that informant of the case filed a transfer application bearing Transfer Application (Criminal) No.420 of 2023 (Mahesh Singh Vs. State Of U.P. And 5 Others) and this Court was pleased to stay the proceedings of the case on 19.09.2023 and transfer application filed by the informant is still pending and therefore, there is no hope of earlier disposal of the trial of the case.

10. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submit that applicant is husband of the deceased and his wife died within five years of her marriage under abnormal circumstances in her matrimonial home and there is also demand of dowry and torture and as applicant was

not permitting to P.W.-1 to appear before the court concerned, therefore, he had to file transfer application and therefore, considering the totality of the facts and circumstances of the case, applicant should not be released on bail.

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

12. However, applicant is husband of the deceased and his wife died within five years of her marriage under abnormal circumstances in her matrimonial home and there is also demand of dowry and torture but from the record, it reflects that applicant is in jail for last more than two years and trial of the case is at its initial stage and even till date the cross-examination of the P.W.-1 i.e. informant of the case could not be concluded and from the order-sheet, it reflects that on 18.04.2023 his examination-in-chief was recorded and thereafter, he failed to appear before the trial court and on 12.07.2023 trial court had to issue bailable warrants against him.

13. Further, it also reflects that a transfer application was filed by the informant for transfer of the trial of the case to other districts and in the transfer application, this Court was pleased to stay the proceedings of the case on 19.09.2023 and transfer application filed by the informant is still pending and therefore, I find force in the argument advanced by learned counsel for the applicant that there is no hope of earlier disposal of the trial of the case.

14. Further, even from the post-mortem report of the deceased, it appears that she died due to hanging and therefore, defence taken by learned counsel for the applicant that she committed suicide, cannot be completely brushed aside at this stage.

15. Further, applicant is not having any criminal history and he is in jail in the present matter since 11.11.2021 i.e. for last more than

two years.

16. Therefore, considering the facts and circumstances of the case, discussed above, 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- **Devendra Chauhan @ Ankur Chauhan**, 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 :- 1.12.2023
Zafar