

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35934 of 2023

Applicant :- Shivkumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Kumar Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Ajay Kumar Dwivedi, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 355 of 2022, under Sections 498A, 304B IPC and 3/4 D.P. Act, Police Station Narkhi, District Firozabad during pendency of the trial.
4. FIR of the present case was lodged against applicant and his family members and according to the FIR marriage of the applicant was performed with the deceased on 04.03.2022 and after marriage applicant and his family members tortured her for additional demand of dowry and on 13.07.2022 i.e. within four months of her marriage, applicant and his family members committed her murder for want of dowry.
5. Learned counsel for the applicant submitted that applicant is husband of the deceased and totally on the basis of false allegation of demand of dowry and torture, he has been made accused in the present matter. He further submits that actually deceased i.e. wife of the applicant was obstinate nature lady and due to her peevish nature she in anger committed suicide by hanging herself.
6. He further submits that post mortem report of the deceased suggests that she died due to hanging. He further submits that when father of the deceased i.e. informant of the case appeared before the trial court then he did not support the prosecution case and was declared hostile. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 14.08.2022 i.e. for more than a year.

7. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is husband of the deceased and his wife died within four months of her marriage in her matrimonial home under abnormal circumstances and although as per defence deceased committed suicide but no good ground for suicide could be brought on record.

8. Learned AGA further submits that although informant has been declared hostile but till date mother of the deceased and other prosecution witnesses could not be examined, therefore, it would not be appropriate to release the applicant on bail.

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

10. However, it appears that during trial informant of the case, who was father of the deceased, has been declared hostile but till date except him none of other prosecution witnesses could be appeared before the trial court including the mother of the deceased.

11. Further, applicant is husband of the deceased and his wife died within four months of her marriage in her matrimonial home under abnormal circumstances and as per allegation there was also demand of dowry.

12. Further, although, learned counsel for the applicant submits that deceased committed suicide due to her obstinate nature but in view of this Court on the basis of such vague defence, it cannot be said that applicant, who was husband of the deceased, has explained the abnormal death of the deceased i.e. his wife.

13. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant, who is husband of the deceased, is not entitled to be released on bail.

14. Accordingly, the instant bail application is rejected.

15. 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 :- 1.11.2023

AK Pandey