

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48789 of 2021

Applicant :- Dharmendra Gupta

Opposite Party :- State of U.P.

Counsel for Applicant :- Mir Sayed, Ravi Sahu

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Rejoinder affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Ravi Sahu, learned counsel for the applicant and Sri Suresh Bahadur Singh, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 688 of 2020, under Sections 498A, 304B, 323, 504 IPC and Section 3/4 D.P. Act, Police Station Babupurva, District Kanpur Nagar during pendency of the trial.
4. FIR of the present case was lodged against applicant and his family members through an application under Section 156(3) Cr.P.C. and according to the FIR marriage of the applicant was performed with the deceased on 24.02.2020 and after marriage applicant and his family members tortured her for Rs. 1 lakh and on 12.08.2020 they have committed her murder due to non fulfillment of the demand of dowry.
5. Learned counsel for the applicant submitted that FIR of the present case was lodged on 19.10.2020 through an application under Section 156(3) Cr.P.C. dated 25.09.2020 and even application under Section 156(3) Cr.P.C. was moved after about one and half months from the date of alleged abnormal death of the deceased .
6. He further submits that actually deceased was obstinate nature lady and due to her nature in anger she committed suicide. He further submits that before lodging the FIR immediately after the death of the deceased informant of the case himself moved an application to the police station concerned on 12.08.2020 at 14.11 hours which shows that due to her obstinate nature deceased committed suicide by

consuming some poisonous substance. He further submits that this fact is evident from the G.D. No. 37 dated 12.08.2020 at 14.11 hours, which has been annexed as Annexure-2 to the affidavit.

7. He further submits that even post mortem report of the deceased suggests that deceased died due to consumption of poisonous substance as her cause of death could not be ascertained and viscera was preserved. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 06.04.2021 i.e. for more than two years.

8. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that applicant is in jail for more than two years and it appears to be a case of consumption of poisonous substance and FIR of the present case was lodged through an application under Section 156(3) Cr.P.C. and even application under Section 156(3) Cr.P.C. was moved after about one and half months.

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

10. However, applicant is husband of the deceased and his wife died within seven years of her marriage under abnormal circumstances and there is also allegation of demand of dowry but it appears that FIR of the present case was lodged on the basis of application moved under Section 156(3) Cr.P.C. and even application under Section 156(3) Cr.P.C. was moved after about one and half months.

11. Further, immediately after the death of the deceased on the same day i.e. on 12.08.2020 father of the deceased i.e. informant of the case himself moved an application to the police station concerned that his daughter was obstinate nature lady and in anger she consumed some poisonous substance and died.

12. Further, applicant is not having any criminal history and in the present matter he is in jail since 06.04.2021 i.e. for more than two years.

13. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

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

15. Let the applicant - **Dharmendra Gupta** 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.

16. 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.

17. 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 :- 3.11.2023

AK Pandey