

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44469 of 2022

Applicant :- Jeetu

Opposite Party :- State of U.P.

Counsel for Applicant :- Shambhawi Shukla, Abhishek Kumar Singh, Ankit Mishra, Rahul Chaudhary, Rajrshi Gupta, Sr. Advocate

Counsel for Opposite Party :- G.A., Abhishek Tiwari, Rohit Singh

Hon'ble Samit Gopal, J.

1. List revised.
2. Heard Sri Akhilesh Kumar Mishra, Advocate, holding brief of Sri Ankit Mishra, learned counsel for the applicant and Sri Ram Prakash Shukla, learned State counsel.
3. Sri Abhishek Tiwari, Sri Rohit Singh, learned counsels for the first informant are not present.
4. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Jeetu, seeking enlargement on bail during trial in connection with Case Crime No.483 of 2017, under Sections 498A, 304B I.P.C. and Section 3/4 D.P. Act, registered at P.S. Bakewar, District Etawah.
5. The F.I.R. of the matter was lodged on 25.8.2017 by Kripa Shankar against the applicant and four other accused persons alleging therein that his daughter Sushma was married to Jeetu (the applicant) on 27.2.2017. After some days of marriage when she went to her matrimonial house there was demand of a motorcycle as a dowry from her due to which the accused persons used to assault and trouble her. They used to trouble her by not giving food and clothes. She informed that the applicant Jeetu is having some relationship with some other woman. The accused persons regularly used to beat her and trouble her for dowry. On 21.8.2017 due to the said dispute she poured kerosene oil herself and committed suicide. The informant and other persons tried to save her and called the police who recorded the statement of his daughter who disclosed that the accused persons are responsible for the incident. Post mortem was got done.
6. Learned counsel for the applicant argued that although the applicant is husband of the deceased but he has been falsely implicated in the present case. It is argued that the story regarding demand of dowry has seen light for the first time when the present F.I.R. has been lodged. It is argued that the trial in the present matter has started in which the first informant Kripa Shankar and Smt. Satyawati the mother of the deceased have been examined as P.W.-1 and P.W.-2 respectively who did not support the prosecution case and P.W.-1 has been declared hostile whereas public prosecutor has been permitted to cross-examine P.W.-2. Para-2 and annexure no. S.A.-1 to the supplementary affidavit dated 18.7.2023 have been placed to buttress the said argument. It is argued that the deceased committed suicide and died in her maternal house and therefore, looking to the facts of the case, implication of the applicant is false. It is argued that the applicant has no other criminal antecedents as stated in para-20 of the affidavit and is in jail since 17.08.2022.
7. Per contra, learned State counsel opposed the prayer for bail and argued that applicant is named in the F.I.R. and there are allegations against him.

8. After having heard learned counsels for the parties and perusing the record, it is evident that although the applicant is husband of the deceased but the deceased committed suicide and died in her maternal house. The first informant Kripa Shankar the father of the deceased and Smt. Satyawati the mother of the deceased have been examined before the trial court who have not supported the prosecution case. The first informant Kripa Shankar/P.W.-1 has been declared hostile and P.W.-2 although she was not declared hostile but the public prosecution has been permitted to cross-examine her.

9. Looking to 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, this Court is of the view that the applicant may be enlarged on bail.

10. Let the applicant- Jeetu, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

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.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

11. 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 and send the applicant to prison.

12. The bail application is allowed.

(Samit Gopal,J.)

Order Date :- 12.12.2023
Naresh