

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46037 of 2022

Applicant :- Mohit Mishra

Opposite Party :- State of U.P.

Counsel for Applicant :- Pratik Chandra, Anand Pati Tiwari

Counsel for Opposite Party :- G.A., Jeetendra Kumar Sharma

Hon'ble Dr. Gautam Chowdhary, J.

1. Case called out in the revised list. No one has appeared on behalf of complainant despite name of counsel has been printed in the cause list.
2. Supplementary affidavit filed today by the learned counsel for the applicant is taken on record.
3. Heard learned counsel for the applicant, learned A.G.A for the State and perused the record.
4. It has been argued by learned counsel for the applicant that the applicant is innocent and has been falsely implicated in the present case. Learned counsel further submits that though in the F.I.R. as well as in his statement recorded under Section 161 Cr.P.C. the complainant who is father of the deceased has made allegation against the applicant and his parents for demand of additional dowry and on account of non fulfillment thereof cruelty meted to her daughter, but during trial in his statement recorded before the trial court as P.W.1, which statement has been filed as Annexure-S.A.1 to the supplementary affidavit filed today, has stated that his daughter never made any complaint regarding demand of dowry and mental agony meted to her by her in-laws, she died in his house, his daughter remained under mental pressure as she was not having any issue after three years of her marriage and under this mental pressure she committed suicide by hanging herself, thus, learned counsel for the applicant submits that complainant has not supported the prosecution case before the trial court and there is bleak chance that prosecution may prove its case beyond reasonable doubt and the applicant may be convicted. 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 04.05.2022, having no criminal history.

5. 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, but he has not disputed that complainant in his statement recorded before the trial court has not supported the prosecution case.

6. 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.

7. Let applicant-**Mohit Mishra**, involved in Case Crime No. 165 of 2022, under Sections 498-A, 304-B I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station Kotwali, District Auraiya, 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.

8. 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.

9. The bail application is **allowed**.

Order Date :- 24.11.2023

Mustaqeem.