

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46151 of 2022

Applicant :- Raghvendra

Opposite Party :- State of U.P.

Counsel for Applicant :- Jitendra Singh, Abhilasha Singh, Ashutosh Yadav, Bishram Tiwari, Shyam Lal

Counsel for Opposite Party :- G.A., Bharat Singh

Hon'ble Sameer Jain, J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Abhilasha Singh, learned counsel for the applicant, Sri Bharat Singh, learned counsel for the informant and Sri Shatrughan Yadav, learned AGA for the State.
3. The instant bail application has been filed by the applicant with the prayer to release him on bail in Case Crime No. 249 of 2022 under sections 302, 328 IPC and section 3/4 D.P. Act, Police Station Behjoi, District Sambhal during pendency of trial.
4. FIR of the present case was lodged against the applicant and four others and according to the FIR, marriage of daughter of the informant was performed with son of the applicant and since marriage, the applicant and his family members were torturing the deceased for Rs.5,00,000/- or a car and on 21.05.2022, the informant received an information that applicant and his family members committed murder of his daughter by administering some poison.
5. Learned counsel for the applicant submits that although in the FIR, applicant has been addressed as 'father-in-law' of the deceased but in fact, he is the uncle (tau) of the husband of the deceased and admittedly, the deceased died after 13 years of her marriage and, therefore, there was hardly any occasion for the husband and his family members to demand dowry and torture the deceased in this regard.
6. She further submits that actually some dispute arose between the husband and wife and wife consumed some poisonous substance and consequently died. She also argued, in her postmortem report, however, the autopsy surgeon noted two injuries which were on

the back side of the deceased one on her buttock and another on the back side of her thigh but these injuries could have been sustained by the deceased during daily household work.

7. She further submitted that statement of the children of the deceased was recorded by the investigating officer after five months of the incident and their statements reflect that they were tutored and merely on the basis of both the statements, it cannot be said that applicant and other accused persons administered poison to the deceased.

8. She further submits that applicant is not having any previous criminal history and he is in jail since 24.08.2022 i.e. for more than a year.

9. *Per contra*, learned counsel for the informant as well as learned AGA submit that applicant is real father-in-law of the deceased and not the uncle of the husband of the deceased and there is allegation that he along with other family members tortured the deceased and administered poison to her but both the counsels could not dispute that only general allegations have been levelled against the applicant and statements of the children were recorded after five months and even from their statements it did not reflect that they were the eye witness. Both the counsels further could not dispute the fact that applicant is in jail for more than a year.

10. I have heard all the parties and perused the record of the case.

11. The applicant appears to be father in law of the deceased who died due to consumption of poison after 13 years of marriage and there is no specific allegation against the applicant and only on the basis of general allegation, he being relative of the husband of the deceased, has been made accused in the present case. However, postmortem report of the deceased suggests that the deceased sustained two injuries but these injuries were of minor nature and although from the statements of the children of the deceased it reflect that applicant and other family members committed murder of the deceased but their statements were recorded by the investigating officer after five months of the incident and only general allegations have been levelled by them and they did not specifically allege they witnessed that the applicant and other accused persons were administering poison to the deceased.

12. Therefore, considering the facts and circumstances as discussed above, in my view, the applicant is entitled to be enlarged on bail.

13. Let the applicant **Raghvendra** 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.

14. In case of breach of any of the above conditions, the prosecution will be at liberty to move an application before this Court for cancellation of bail of the applicant.

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 :- 16.10.2023

Madhurima