

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39891 of 2023

Applicant :- Rohit

Opposite Party :- State of U.P.

Counsel for Applicant :- Sarvajeet Singh

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

1. Heard Mr. Sarvajeet Singh, the learned counsel for applicant and the learned A.G.A. for State.

2. Perused the record.

3. This application for bail has been filed by applicant Rohit, seeking his enlargement on bail in Session Trial No.44 of 2023 (State Vs. Rohit & Others), arising out of Case Crime No.339 of 2022, under Sections 498-A, 304-B I.P.C. & Sections 3/4 D.P. Act, Police Station Gunaur, District Sambhal during the pendency of trial.

4. Record shows that in respect of an incident, which is alleged to have occurred on 24.09.2022, a delayed FIR dated 26.09.2022 was lodged by first informant, Rakesh Kumar (brother of the deceased) and was registered as Case Crime No.339 of 2022, under Sections 498-A, 304-B, 316 I.P.C. & Sections 3/4 D.P. Act, Police Station Gunaur, District Sambhal. In the aforesaid FIR three persons namely; Rohit (applicant herein), Bhagwan Singh and Shrivati have been nominated as named accused.

5. It transpires from the record that marriage of applicant Rohit was solemnized with Rinki on 04.05.2022. However, just after

expiry of a period of four months and twenty days from the date of marriage of the applicant an unfortunate incident occurred on 24.09.2022, in which the wife of the applicant died as she committed suicide by hanging herself.

6. Learned counsel for applicant submits that though applicant is husband of the deceased, a named as well as charge-sheeted accused, yet he is liable to be enlarged on bail. The deceased was a short-tempered lady and she has taken the extreme step for terminating her life through suicide by hanging herself. The bonafide of the applicant is explicit from the fact that the autopsy surgeon, who conducted autopsy of the body of the deceased, did not find any other external ante-mortem injury on the body of the deceased, except the ligature mark. It is then urged by the learned counsel for applicant that the allegations made in the FIR with regard to demand of additional dowry to the tune of Rs.50,000/- cash and a bullet motorcycle are vague and bald, inasmuch as, the same are devoid of material particulars. As such, the same are liable to be ignored by this Court.

7. Even otherwise, applicant is a man of clean antecedents having no criminal history to his credit except the present one. Applicant is in jail since 28.09.2022. As such, he has undergone more than one year and one month of incarceration. The police report in terms of Section 173(2) Cr.P.C. i.e. charge-sheet has already been submitted against applicant and therefore, the entire evidence sought to be relied upon by the prosecution against applicant stands crystallized. Up to this stage, no such circumstance has emerged necessitating the custodial arrest of applicant during the pendency of trial. He, therefore, submits that applicant is liable to be enlarged on bail. In case, the applicant is enlarged on bail, he

shall not misuse the liberty of bail and shall co-operate with the trial.

8. Per contra, the learned A.G.A. has opposed the present application for bail. He submits that since applicant is husband of the deceased, a named as well as charge-sheeted accused, therefore, he does not deserve any indulgence by this Court. The deceased was a young lady aged about nineteen years, who has died an unnatural death at her marital home just after expiry of a period of four months and twenty days from the date of her marriage. According to the learned A.G.A. since the death of the deceased has occurred within seven years of her marriage at her marital home, therefore, the same is a dowry death. Consequently the burden is upon the applicant to not only explain the manner of occurrence but also his innocence in terms of Sections 106 and 113-B Indian Evidence Act as applicant is husband of the deceased and an inmate of the house. However, applicant has miserably failed to discharge the said burden up to this stage. As such, no sympathy be shown by this Court in favour of applicant.

9. When confronted with above, the learned counsel for applicant could not overcome the same.

10. Having heard the learned counsel for applicant, the learned A.G.A. for State, upon perusal of material brought on record, evidence, nature and gravity of offence as well as the complicity of applicant and accusation made coupled with the fact that the death of the deceased i.e. wife of the applicant though a suicidal death has occurred just after expiry of a period of four months and twenty days from the date of her marriage. According to the learned A.G.A. since the death of the deceased has occurred within seven years of her marriage at her marital home and the applicant,

who is husband of the deceased having failed to explain the manner of occurrence as also his innocence, therefore, the burden in terms of Sections 106 and 113-B of the Evidence Act does not stand discharged. As such, irrespective of the varied submissions urged by the learned counsel for the applicant in support of the present application for bail but without making any comment on the merits of the case, this Court does not find any good or sufficient ground to allow this application for bail.

11. As a result, the application fails and is liable to be rejected.

12. It is accordingly **rejected**.

Order Date :- 16.11.2023

Zafar