

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40118 of 2023

Applicant :- Jai Narayan

Opposite Party :- State of U.P.

Counsel for Applicant :- Sudhanshu Srivastava, Omar Zamin

Counsel for Opposite Party :- G.A., Prabhakar Pal, Rajesh Kumar Singh

Hon'ble Samit Gopal, J.

1. List revised.

2. Heard Sri Omar Zamin, learned counsel for the applicant, Sri Rajesh Kumar Singh, learned counsel for the first informant, Sri Ram Prakash Shukla, learned AGA-I for the State and perused the material on record.

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Jai Narayan, seeking enlargement on bail during trial in connection with Case Crime No. 269 of 2023, under Sections 498A, 304B I.P.C. and 3/4 Dowry Prohibition Act, registered at P.S. Rasoolpur, District Firozabad.

4. Learned counsel for the applicant argued that applicant is father-in-law of the deceased. It is argued that marriage of the deceased Mrs. Shilpi with Ajaydeep the son of the applicant was solemnized around 2 years back. It is argued that general and omnibus allegations have been levelled against all the accused persons. It is argued that the husband of the deceased has been arrested and is in jail. It is further argued that the deceased committed suicide and died which is consistent with the post mortem examination report which shows a single ligature mark on her body and cause of death of the deceased as opined by the doctor is asphyxia due to ante mortem hanging. It is further argued that the applicant has been falsely implicated in the present case only being the family member of the husband of the deceased. It is argued that charge sheet in the matter has been submitted on which cognizance has been taken, para-20 of the affidavit has been placed for the same, and as such there are no chances of the applicant tempering with the evidence or not co-operating in the investigation. Further para-21 of the affidavit has been placed before the Court and it is argued that the applicant is 61 years old man and is suffering

from various age related illness. It is argued that Smt. Sunita Devi mother-in-law of the deceased has been granted bail by a co-ordinate Bench of this Court vide order dated 01.11.2023 passed in Criminal Misc. Bail Application No. 46230 of 2023, copy of the said order has been produced before the Court which has been taken on record. It is argued that the applicant has no other criminal antecedents as stated in para- 4 of the affidavit and is in jail since 23.5.2023.

5. Per contra, learned State counsel as well as learned counsel for the first informant opposed the prayer for bail.

6. After having heard learned counsels for the parties and perusing the record, it is evident that the applicant is the father-in-law of the deceased. The husband is in jail. Cause of death is asphyxia due to ante mortem hanging. Charge sheet in the matter has been submitted and cognizance has been taken. Co-accused Smt. Sunita Devi the mother-in-law of the deceased has been granted bail by a co-ordinate Bench of this Court. Except single ligature mark no other bodily injury was found on the body of the deceased.

7. 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.

8. Let the applicant- Jai Narayan, 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.

9. 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.

10. The bail application is allowed.

(Samit Gopal,J.)

Order Date :- 29.11.2023

Naresh