

Neutral Citation No. - 2023:AHC:235609

Reserved On:- 01.12.2023

Delivered On:- 12.12.2023

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41086 of 2023

Applicant :- Vishwanath

Opposite Party :- State of U.P.

Counsel for Applicant :- Padmaker Pandey

**Counsel for Opposite Party :- G.A., Gyanendra Singh, Shyam Kumar
Verma**

Hon'ble Siddharth, J.

1. Heard Sri V.P. Srivastava, learned Senior counsel, assisted by Sri Padmaker Pandey, learned counsel for applicant; Sri Deepak Dubey, Advocate, holding brief of Sri Gyanendra Singh, learned counsel for informant and learned AGA for State.

2. The instant bail application has been filed on behalf of the applicant, Vishwanath, with a prayer to release him on bail in Case Crime No. 125 of 2023, under Sections- 498-A, 304-B IPC and Section 3/4 of Dowry Prohibition Act, Police Station- Bitoor, District- Kanpur Nagar.

3. There is allegation against the applicant of causing dowry death of his wife.

4. Learned counsel for the applicant submits that as per FIR allegations, marriage of the deceased with applicant took place on 19.04.2016 but the family members of our matrimonial home were not happy and were demanding ₹5 lakhs and a car. Earlier panchayat also took place, but the accused person did not mend their ways. On 14.04.2023, applicant caused her murder by his licensed pistol.

5. Learned Senior Counsel for the applicant has submitted that it is a case of false implication of the applicant. During inquest proceedings, in the opinion of inquest witnesses, death of deceased was caused by suffering gunshot injuries. She was taken to Hallet Hospital for treatment but she was declared dead by the doctor. It has been pointed out that there was only one fire arm caused to the deceased. The second fire arm wound was suffered from the bullet which came out from the first wound of entry on chest and hit the medial aspect of a right arm. He has submitted that sister and brother of the deceased were residing in the same house and they have not made any allegation against the applicant. He has submitted that it is the case of accidental fire while cleaning of his licensed pistol by the applicant. There is no evidence of deceased being treated with cruelty or subjected to harassment prior to commission of alleged offence. There was no dispute between the husband and wife at all. The applicant is in jail since 17.04.2023 and has no criminal history to his credit. The sister of the deceased had stated before the investigating officer that relationship between the applicant and deceased were good. Applicant is employed as Security Guard and he was required to clean his gun and load it for the purpose of duty.

6. Learned counsel for the informant has vehemently opposed to the bail application. He submitted that the deceased died in her matrimonial home and it is clear from the post-mortem report that she was brought dead to the hospital. He has submitted that one metallic pellet and one bullet were recovered from the body of the deceased. He has pointed out to the spot inspection report prepared by the Scientific Officer which shows that on the place of incident, blood was found on floor, bedding, wall and all the places were washed. He has further submitted that nitrate has found in the hands swab of the applicant which proves that firing was made by

the applicant. He has further submitted that it is not a case of accidental firing but deliberate murder of his wife by the applicant.

7. Learned counsel for the informant has further pointed out that the statement of sister of deceased, Laxmi, has not been recorded but her written statement has been made part of the case diary which cannot be read in favour of applicant in view of section 162 Cr.P.C.

8. Learned A.G.A has also opposed the bail application of the applicant.

9. After hearing the rival contentions, this Court find that it is not a fit case for granting bail to the applicant at this stage.

10. The bail application is accordingly, ***rejected***.

11. Trial court is directed to conclude the trial against applicant within period of one year from the date of production of certified copy of this order before the trial court.

Order Date :- 12.12.2023

Rohit