

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48195 of 2022

Applicant :- Anoop Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- S.P.S. Chauhan, Atul Tripathi, Sukhendra Singh

Counsel for Opposite Party :- G.A., Mahesh Kumar

Hon'ble Samit Gopal, J.

1. Heard Sri Atul Tripathi, learned counsel for the applicant, Sri Mahesh Kumar, learned counsel for the first informant and Sri Bade Lal Bind, learned counsel for the State and perused the material on record.

2. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- **Anoop Singh**, seeking enlargement on bail during trial in connection with Case Crime No. 39 of 2022, under Sections 498-A, 304-B I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station Khakhreru, District Fatehpur.

3. The first information report of the present matter was lodged on 02.03.2022 by Ram Abhilash Singh alleging therein that his daughter Aanchal Devi was married with Anoop Singh the applicant on 18.06.2021. The applicant, Suman Devi, Alpana Devi and Abhishek Singh are the accused therein. The accused persons started demanding dowry of Rs. 2,00,000/- and due to non-fulfillment of the same, his daughter used to be tortured and troubled by them. On 02.03.2022 the accused persons murdered his daughter.

4. Learned counsel for the applicant argued that although the applicant is the husband of the deceased but he has been falsely implicated in the present case. It is argued that the postmortem examination report shows a ligature mark on the body of the deceased and a contusion on the parietal region but the cause of death has been opined as asphyxia as a result of antemortem hanging which would go to show that the said contusion did not contribute to the death of the deceased. It is argued that the postmortem report is suggestive of suicide. The applicant has been falsely implicated in the present case. There is no complaint whatsoever prior to lodging of the first information report by the deceased or her parents of demanding dowry or harassing and torturing. While placing supplementary affidavit dated 03.10.2023 it is argued that the first informant Ram Abhilash Singh was examined as P.W.-1 before the trial court who did not support the prosecution story and has been declared hostile. It is further argued while placing the said supplementary affidavit that Krishna Devi the mother of the deceased and wife of the first informant was examined as P.W.-2 who also did not support the prosecution case and has been declared hostile. It is argued that as such the implication of the applicant in the present case is false and without any evidence since the two witnesses have stated that there had been no

demand of dowry ever by the accused persons from their daughter who was never tortured by them. She was having a mental illness and due to the same she used to remain depressed. It is argued that co-accused Abhishek Singh has been granted bail by the trial court concerned vide order dated 14.07.2022 passed in Bail Application No. 1462 of 2022 (Abhishek Singh @ Budhraj Singh vs. State of U.P.). Further co-accused Suman Devi the mother-in-law of the deceased has also been granted bail by a co-ordinate Bench of this Court vide order dated 08.09.2022 passed in Criminal Misc. Bail Application No. 37333 of 2022, the copy of the said orders is annexed as Annexure-6 to the affidavit. The applicant has no criminal history as stated in para 27 and is in jail since 03.03.2022.

5. Learned counsel for the first informant submits that he has no instructions in the matter and as such will not raise any argument in it.

6. *Per contra*, learned counsel for the State opposed the prayer for bail.

7. After having heard learned counsels for the parties and perusing the record, it is evident that the applicant is the husband of the deceased. The deceased died within 09 months of her marriage in her matrimonial house. The doctor conducting the postmortem examination found a contused swelling on the head of the deceased apart from ligature mark. In so far as the first informant and his wife not supporting the prosecution case and being declared hostile is concerned, the same is a matter to be considered by the trial court at the appropriate stage in trial. Since the applicant is the husband of the deceased, he is under a burden to discharge regarding the death of the deceased. The Apex Court in the case of ***Munilakshmi v. Narendra Babu: 2023 LiveLaw (SC) 924*** has viewed the hostility of witness with great seriousness.

8. Looking to the facts and circumstances of the case, this Court does not find it a fit case for bail, hence, the bail application is **rejected**.

9. However, since the trial is of the year 2022 and the applicant is the accused, it is provided that the applicant may file an application for expeditious disposal of the trial of the case before the court concerned within two weeks from today, which may as per its load of work, diary and pendency of cases, pass appropriate orders on the same.

Order Date :- 30.10.2023

AS Rathore

(Samit Gopal,J.)