

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41603 of 2023

Applicant :- Rajendra

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashok Kumar Singh Bais

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Rohit Singh, Advocate, holding brief of Sri A.K.S. Bais, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 142 of 2022, under Sections 302, 201, 498-A IPC, Police Station- Badgaon, District-Saharanpur, during pendency of the trial in the court below.

3. Learned counsel for the applicant submitted that this is the second bail application filed on behalf of the applicant and his first bail application was dismissed on merit by this Court on 19.04.2023 and he is pressing the instant second bail application on the ground that as applicant is the husband of the deceased and he failed to explain the death of his wife, therefore, mainly on this ground his first bail application was dismissed and now applicant has taken a specific defence that deceased died due to serious illness and with regard to illness of the deceased, her medical prescriptions have been annexed alongwith the instant bail application.

4. He further submitted that even when informant of the case appeared before the trial court then he did not support the prosecution case and has been declared hostile. He further submitted that informant categorically stated that his daughter was suffering with heart disease and due to heart attack, she died.

5. He further submitted that applicant is not having any criminal history and he is in jail since 01.09.2022 i.e. for last more than a year.

6. Per contra, learned AGA opposed the prayer for bail and

submitted that this is the second bail application filed on behalf of the applicant and his first bail application was dismissed by this Court on merit after considering the entire facts of the case.

7. He further submitted that however, P.W. 1, the informant, when appeared before the trial court then he was declared hostile as he did not support the prosecution case and from his statement, which has been annexed alongwith the instant bail application, it appears that according to him, his daughter died due to heart attack as she was suffering with heart disease but from the medical prescriptions of the deceased, which has been annexed alongwith the instant bail application, it appears that they were of Neuro & Mind Clinic, therefore, it appears that informant has been won over by the applicant.

8. He further submitted that even from the medical prescription of the deceased, it could not be reflected that she was suffering from which disease and it appears that after rejection of the first bail application, any how applicant procured these medical prescriptions and, therefore, he does not deserve bail.

9. I have heard learned counsel for the parties and perused the record of the case.

10. This is the second bail application filed on behalf of the applicant and his first bail application was dismissed on merit.

11. From the record, it reflects that after rejection of the first bail application of the applicant, when informant appeared before the trial court then he did not support the prosecution case and has been declared hostile and he categorically stated that his daughter i.e. wife of the applicant was suffering with heart disease and she died due to heart attack.

12. From the record, it also reflects that the medical prescriptions of the deceased have also been annexed as Annexure No. 3 and after perusing the same, it reflects that they were of Arun's Neuro & Mind Clinic and therefore, I find force in the argument advanced by learned AGA that it appears, applicant won over the informant and due to his influence, informant did not disclose the correct facts before the trial court as if his daughter was suffering with heart disease then there was no occasion for her to be medically examined by a Neurologist.

13. Further, even from Annexure No. 3, which were medical prescriptions of the deceased, it reflects that only medicines have

been prescribed and according to the prosecution, deceased was having complaint of high blood pressure. From these documents, it could not be reflected that deceased was suffering with any serious disease.

14. Further, applicant is the husband of the deceased and in haste, he cremated the dead body of the deceased i.e. his wife.

15. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be released on bail.

16. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **rejected**.

17. 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 :- 13.12.2023

KK Patel