

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48710 of 2019

Applicant :- Neeraj Batham

Opposite Party :- State of U.P.

Counsel for Applicant :- Anil Kumar Bind,Ram Autar Verma

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Ram Autar Verma, learned counsel for the applicant and Dr. S.B. Maurya, learned AGA-I for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 25 of 2019, under Sections 498-A, 304-B, 506 IPC & 3/4 D.P. Act, Police Station-Maudarwaja, District- Farrukhabad, during pendency of the trial in the court below.
3. FIR of the present case was lodged on 18.01.2019 against applicant and his family members and according to the FIR, marriage of the applicant was performed with the daughter of the informant on 20.04.2018 and after marriage, applicant and his family members tortured her for additional demand of Rs. 75,000/- and a motorcycle and due to non fulfilment of demand of dowry, applicant and his family members administered some poisonous substance to the daughter of the informant due to which she died on 29.11.2018.
4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and only being husband of the deceased, he has been made accused in the present matter and in fact, he neither demanded any dowry nor tortured the deceased in any manner. He further submitted that actually deceased sometimes suffered with fits of epilepsy and only due to this reason, she consumed poisonous substance and died.
5. He further submitted that during autopsy cause of death of the deceased could not be ascertained and viscera was preserved and now viscera report is on record and according to viscera report, deceased died due to consumption of poison.

6. He further submitted that applicant is not having any criminal history and he is in jail since 20.02.2019 i.e. for last almost four years and till date trial of the case could not be concluded.
7. He further submitted that in the charge sheet, there are as many as 15 prosecution witnesses but out of 15 only 7 prosecution witnesses could be examined till date, therefore, it appears that trial of the case is moving with snail's speed and there is no hope of its early disposal.
8. He further submitted that considering the fact that applicant has already served more than 50% of minimum sentence of seven years provided under Section 304-B IPC, he may be released on bail.
9. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is the husband of the deceased and his wife died within seven years of her marriage under abnormal circumstances in her matrimonial home due to poisoning and there is also allegation of demand of dowry but could not dispute the fact that applicant is in jail since February, 2019 i.e. for last almost four years and out of 15 prosecution witnesses, only 7 prosecution witnesses could be examined till date. He further could not dispute the fact that applicant is not having any criminal history.
10. I have heard learned counsel for the parties and perused the record of the case.
11. However, applicant is the husband of the deceased and his wife died within seven years of her marriage under abnormal circumstances in her matrimonial home due to poisoning and there is also allegation of demand of dowry but from the record, it reflects that applicant is not having any criminal history and he is in jail since 20.02.2019 i.e. for last almost four years and out of 15 prosecution witnesses of the charge sheet till date only 7 could be examined, therefore, it appears that trial of the case is moving with languid pace and there is no hope of its early disposal.
12. The Apex Court in the case of ***Union of India Vs. K.A. Najeeb (2021) 3 SCC 713*** observed that the right of speedy trial is the fundamental right of an accused and on its violation, bail application of an accused can be considered.
13. Therefore, considering the fact that applicant is in jail for last almost four years and he has already served more than 50% of minimum sentence of seven years provided under Section 304-B

IPC and deceased died due to consumption of poisonous substance and there is no hope of early disposal of the trial, in my view, applicant, who is although husband of the deceased, is entitled to be released on bail.

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

15. Let the applicant- **Neeraj Batham** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

16. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

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