

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42392 of 2023

Applicant :- Khemchandra Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Tripathi, Pankaj Tripathi

Counsel for Opposite Party :- G.A., Chandra Prakash Tiwari

Hon'ble Ajay Bhanot, J.

By means of the the bail application the applicant has prayed to be enlarged on bail in Case Crime No.83 of 2023 at Police Station-Mahobkanth, District-Mahoba under Section 498A, 304B, 504 IPC and Section 3/4 of Dowry Prohibition Act. The applicant is in jail since 20.06.2023.

The bail application of the applicant was rejected by the learned trial court on 12.07.2023.

The following arguments made by Shri Sanjay Tripathi, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Chandra Prakash Tiwari, learned counsel on behalf of the informant and Ms. Sujata Chaudhary, learned AGA from the record, entitle the applicant for grant of bail:

1. The applicant is the brother-in-law of the deceased.
2. The applicant did not demand dowry or torture the deceased.

3. The applicant resides separately at Delhi with his family where he works for a living. He never interfered in the marital affairs of the deceased.
4. The applicant has been falsely nominated due to a family dispute over partition of property. The criminal case is being leveraged in the in the property claims by the concerned party.
5. The relations of the victim with her family members were estranged.
6. On the fateful day, she succumbed to depression and took the extreme step of ending her life. She committed suicide by hanging.
7. The post mortem report opines that the cause of death is asphyxia due to antemortem hanging.
8. Injuries depicted in the post mortem report consistent with hanging are:
 - (i). Nature of ligature mark.
 - (ii). No abnormality was detected in the hyoid bone.
9. The applicant did not abet or instigate the deceased to commit suicide.
10. The prerequisites for attracting the presumption and reversing of the burden of proof are not established in the facts and circumstances and evidence of the case.
11. The applicant does not have any criminal history apart from this case.

12. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to join the trial proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant-**Khemchandra Yadav** 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 below. The following conditions be imposed in the interest of justice:-

(i) The applicant will not tamper with the evidence or influence any witness during the trial.

(ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

Order Date :- 18.10.2023

Vandit