

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43167 of 2023

Applicant :- Rakesh

Opposite Party :- State of U.P.

Counsel for Applicant :- Dinesh Singh, Jawahir Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Dinesh Singh, learned counsel for the applicant and Dr. S.B. Maurya, learned AGA-I for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 125 of 2021, under Sections 498-A, 304-B IPC & 3/4 D.P. Act, Police Station- Khanpur, District- Ghazipur, during pendency of the trial in the court below.
4. FIR of the present case was lodged against applicant and his family members and according to the FIR, marriage of the applicant was performed with the daughter of the informant in the months of June 2017 and after marriage, applicant and his family members tortured her for demand of dowry and on 15.07.2021, sister of the informant informed him that his daughter has died.
5. Learned counsel for the applicant submitted that applicant is the husband of the deceased and on the basis of false allegation of demand of dowry, he has been made accused in the present matter.
6. He further submitted that actually applicant did the job of labour in Amritsar, Punjab and deceased always insisted him to live with him but due to paucity of fund, he was unable to fulfil her desire and, therefore, she committed suicide.
7. He further submitted that even post-mortem report of the deceased suggests that she died due to hanging. He further submitted that even in the FIR no specific demand of dowry has been disclosed.

8. He further submitted that applicant is not having any criminal history and he is in jail since 17.07.2021 i.e. for last almost two and half years.

9. Per contra, learned AGA however, opposed the prayer for bail but could not dispute the fact that deceased i.e. wife of the applicant died due to hanging and applicant is in jail for last almost two and half years.

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 and there is also allegation of demand of dowry but in the FIR, no specific demand of dowry could be disclosed and post-mortem report of the deceased suggests that she died due to hanging, therefore, defence taken by the applicant cannot be completely ruled out at this stage.

12. Further, applicant is not having any criminal history and he is in jail since 17.07.2021 i.e. for last almost two and half years.

13. Therefore, considering the facts and circumstances of the case discussed above, particularly, the long incarceration of the applicant of almost two and half years, in my view applicant 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- **Rakesh** 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