

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43924 of 2023

Applicant :- Shubham Singhal

Opposite Party :- State of U.P.

Counsel for Applicant :- Raj Kumar Kesari

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth, J.

1. Heard learned counsel for the applicant and learned A.G.A for the State.

2. There is allegation against the applicant in the FIR of causing dowry death of his wife.

3. Counsel for the applicant submits that co-accused, Sanjeev Singhal, father of the applicant and father-in-law of the deceased was granted bail by this Court by the order dated 10.07.2023 by a reasoned order giving reason why the deceased had committed suicide. Co-accused, Smt. Ina, has also been enlarged on bail by this Court vide Criminal Misc. Bail Application No. 29485 of 2023.

4. Order of co-accused, Sanjeev Singhal, is being quoted hereinbelow:-

"1. Case diary has been produced by learned AGA before this Court, which is taken on record.

2. Heard Sri Raj Kumar Kesari, learned counsel for the applicant; Smt Shaily Ganguly, learned counsel for the informant as well as the learned AGA for the State and perused the material placed on record.

3. The instant bail application has been filed on behalf of the applicant, Sanjeev Singhal, with a prayer to release him on bail in Case Crime No. 173 of 2023, under Sections 498-A, 304-B IPC, and $\frac{3}{4}$ Dowry Prohibition Act, Police Station Garh Mukteshwar, District- Hapur, during pendency of trial.

4. There is allegation against the applicant that he has caused dowry death of his daughter-in-law because of non-fulfillment demand of dowry.

5. Learned counsel for the applicant has submitted that the applicant is the father-in-law of the deceased. Marriage of the deceased took place on 28th

May, 2019 and thereafter, she gave birth to a male child who is mentally retarded and physically disabled and aged about 2 years. Learned counsel for the applicant has further submitted that it is a case of false implication. The deceased was under depression after she gave birth to an abnormal child. Two years ago, she consumed poison and hanged herself to death. He submitted that it is a case of suicide not murder. He has further been submitted that the deceased was under depression and was being treated at Sardar Ballabh Bhai Patel Hospital, Meerut. Earlier, co-accused, Shubham, her husband and the deceased were living separately. She was living at Meerut since April, 2020 at a place which was 500 metres her parental home. Co-accused, Shubham, was appointed in ICICI Bank at Garh Mukteshwar on 05.04.2023 and since then the deceased started living with him. The allegation of demand of dowry in cash and a car are absolutely false. The incident took place at Garh Mukteshwar, where, the applicant was not living. The applicant has been falsely implicated in this case. He has no criminal history to his credit and is languishing in jail since 17.04.2023. The trial in the aforesaid case is not likely to be concluded in near future.

6. Learned A.G.A. and learned counsel for informant have vehemently opposed the prayer for bail of the applicant and have submitted that the deceased died within seven years of her marriage with the son of the applicant. They further submitted that because of non-fulfillment of demand of dowry of Rs. 20 lakhs and a car, the victim was hanged to death. In case the applicant is released on bail he will again indulge in similar activities and will misuse the liberty of bail.

7. After hearing the rival contentions, this Court finds that the cause of death of the deceased was found to be asphyxia due to combined affect of asphyxia, venous congestion due to ante-mortem hanging. It also clear from the record that the deceased was under psychiatric treatment because of depression suffered by her. Her son was clearly physically and mentally disabled and therefore, there is possibility of the deceased committing suicide by way of hanging. The applicant has no previous criminal antecedents.

8. Having considered the submissions of the parties noted above, finding force in the submissions made by the learned counsel for the applicant, keeping in view the uncertainty regarding conclusion of trial; one sided investigation by police, ignoring the case of accused side; applicant being under-trial having fundamental right to speedy trial; larger mandate of the Article 21 of the Constitution of India, considering the dictum of Apex Court in the case of Satendra Kumar Antil Vs. C.B.I. & Another, passed in S.L.P. (Crl.) No. 5191 of 2021, judgement dated 11.7.2022 and considering 5-6 times overcrowding in jails over and above their capacity by under trials and without expressing any opinion on the merits of the case, let the applicant involved in the aforesaid crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions that :-

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the

Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) In case the applicant misuse the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C. is issued and the applicants fail to appear before the Court on the date fixed in such proclamation then the Trial Court shall initiate proceedings against him in accordance with law under Section 174-A of the Indian Penal Code.

(v) The applicant shall remain present in person before the Trial Court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

9. In case, of breach of any of the above conditions, it shall be a ground for cancellation of bail.

10. Identity and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

11. The court below is directed to conclude the trial against the applicant, as expeditiously as possible, preferably within a period of one year.

12. Registrar(Compliance) is directed to communicate this order to the concerned court below within ten days. "

5. For the reasons given in the aforesaid order the applicant is also enlarged on bail. The applicant is in jail since 17.04.2023 and has no criminal history to his credit.

6. On the other hand learned A.G.A has opposed the prayer for bail.

7. Keeping in view the nature of the offence, evidence, complicity of the accused; submissions of the learned counsel for the parties noted above; finding force in the submissions made by the learned counsel for the applicant; keeping view the uncertainty regarding conclusion of trial; one sided investigation by police, ignoring the case of accused side; applicant being under-trial having fundamental right to speedy trial; larger mandate of the Article 21 of the Constitution of India; considering the dictum of Apex Court in the case of **Satendra Kumar Antil vs. C.B.I., passed in S.L.P (Crl.) No. 5191 of 2021**; considering 5-6 times overcrowding in

jails over and above their capacity by the under trials and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

8. Let the applicant, Shubham Singhal, involved in Case Crime No. 173 of 2023, under Sections- 498-A, 304-B IPC and Section 3/4 of Dowry Prohibition Act, Police Station- Garh Mukteshwar, District- Hapur, be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) In case the applicant misuses the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the Court on the date fixed in such proclamation then the Trial Court shall initiate proceedings against him in accordance with law under Section 174-A of the Indian Penal Code.

(v) The applicant shall remain present in person before the Trial Court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

9. In case, of breach of any of the above conditions, it shall be a ground for cancellation of bail.

10. Identity and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 16.10.2023

Rohit