

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43128 of 2023

Applicant :- Danish

Opposite Party :- State of U.P.

Counsel for Applicant :- Sadrul Islam Jafri, Ambreen Masroor, Sr. Advocate

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal, J.

1. List revised.

2. Heard Sri N.I. Jafri, learned Senior Advocate assisted by Sri Gufran Ahmad Khan, Advocate holding brief of Sri Sadrul Islam Jafri, learned counsel for the applicant, Sri Bade Lal Bind, learned counsel for the State and perused the material on record.

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant **Danish**, seeking enlargement on bail during trial in connection with Case Crime No. 0002 of 2023, under Sections 498-A, 507, 304-B IPC and Section 3/4 D.P. Act, registered at P.S. Pallavpuram, District Meerut.

4. The FIR of the matter was lodged on 01.01.2023 by Mohd. Shamshad against the applicant and seven other persons alleging therein that his sister Heena was married to the applicant around three years back in which he had given gifts and dowry. He had spent Rs. 10 lakhs in the marriage. The accused persons were not satisfied with it and were demanding Rs. 1 lakh and a bullet motorcycle as dowry due to which they used to physically and mentally harass and torture his sister. On 01.01.2023 he came to know that his sister has been murdered by the accused persons. The FIR has thus been lodged.

5. Learned counsel for the applicant argued that although the applicant is the husband of the deceased but he has been falsely implicated in the present case. It is argued while placing para 29 of the affidavit in support of the bail application that the applicant was not present at the place of occurrence but was present at the house of Abdul Salam which was situated 8 kilometers away from

his house and when he came to know of the unfortunate incident from his family members then he immediately rushed to his house and found his wife dead. It is further argued that prior to the present FIR there is no complaint whatsoever by the deceased or her family members were given regarding any dowry, torture or harassment. It is argued that co-accused Shayera the mother-in-law of the deceased has been granted bail by a co-ordinate Bench of this Court vide order dated 24.08.2023 passed in Crl. Misc. Bail Application No. 33531 of 2023 (Shayera Vs. State of U.P.), copy of the order is annexed as annexure 13 to the affidavit. It is further argued that after the incident the conduct of the applicant is aboveboard inasmuch as he was present at the time of inquest on the body of the deceased and is one of the witnesses of the same. The information about the death of the deceased was given by the family members of the applicant, thereafter, the present FIR has been lodged. He further argued that the applicant has no criminal history as stated in para 32 of the affidavit and is in jail since 02.01.2023.

6. Per contra, learned counsel for the State vehemently opposed the prayer for bail and argued that the applicant is the husband of the deceased. The deceased Heena died within seven years of marriage in her matrimonial house. It is argued that the postmortem examination of the deceased goes to show that there is a ligature mark on her neck and the cause of death has been opined due to asphyxia as a result of strangulation which rules out the possibility of suicide. It is argued that even there was a miscommunication to the police on the basis of which inquest was conducted wherein it was informed that a lady has died by committing suicide which is specifically mentioned in the inquest report. It is argued that there is no reason for false implication of the applicant and as such the prayer for bail of the applicant be rejected.

7. After having heard learned counsels for the parties and perusing the records, it is evident that the applicant is the husband of the deceased. The cause of death of the deceased is asphyxia as a result of strangulation which rules out the possibility of suicide. The death is within seven years of marriage in her matrimonial house. In so far as the alibi of the applicant is concerned, the same is a matter of trial which needs to be proved at the appropriate stage. The information given to the police on the basis of which the inquest was conducted appears to be a misleading one. I do not find it a fit case for bail.

8. Considering the totality of the case in particular, nature of

evidence available on record, I am not inclined to release the applicant on bail.

9. The bail application is, accordingly, ***rejected***.

Order Date :- 28.10.2023

M. ARIF

(Samit Gopal, J.)