

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43505 of 2023

Applicant :- Kamlesh

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Sanjay Kumar Dubey, learned counsel for the applicant and Sri Kunwar Tejendra Bahadur, learned AGA, for the State.

2. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.148 of 2023, under Sections 498A, 304-B and 506 IPC and Section 3/4 Dowry Prohibition Act, Police Station Kotwali Sadabad, District Hathras during pendency of the trial.

3. FIR of the present case was lodged against the applicant and his family members including his son and according to the FIR, marriage of the son of applicant was performed with the daughter of the informant about 6-1/2 years before and after marriage applicant and her family members tortured his daughter for demand of dowry and her husband Mukesh on non fulfillment of demand of Rs.80,000/- started making assault upon her and on 18.1.2023 applicant and his family members committed her murder.

4. Learned counsel for the applicant submits that applicant is the mother-in-law of the deceased and on the basis of false allegation of demand of dowry and torture she has been made accused in the present matter.

5. He further submits that actually deceased resided separately along with her husband and applicant did not reside with her and this fact is evident from ration card of the deceased which has been annexed as Annexure-2 to the affidavit filed in support of the present bail application.

6. He further submits that from the post mortem report of the deceased, the cause of death could not be ascertained and viscera was preserved and as per viscera report deceased died due to consumption of insecticide and this fact also suggests that she committed suicide.

7. He further submits that applicant is lady and she is in jail in the present matter since 27.6.2023.

8. Per contra, learned AGA although opposed the prayer for bail but could not dispute the fact that applicant is the mother-in-law of the deceased and deceased resided separately along with her husband and she died due to consumption of insecticide.

9. I have heard learned counsel for the parties and perused the record of the case.

10. Considering the fact that applicant is the mother-in-law of the deceased and there is no specific allegation against her and she resided separately and deceased died due to consumption of insecticide, in my view, applicant is entitled to be released on bail.

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

12. Let the applicant-**Kamlesh** 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.

13. 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.

14. 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 :- 12.10.2023

SKM