

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43935 of 2023

Applicant :- Rakesh Nishad

Opposite Party :- State of U.P.

Counsel for Applicant :- Gopal Krishna

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth,J.

List has been revised.

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

Supplementary affidavit filed today is taken on record.

This is second bail application. The Crl. Misc. First Bail Application has been rejected by this court vide order dated 13.02.2023 in Crl. Misc. Bail Application No. 29900 of 2022.

There is allegation against the applicant of causing dowry death of his wife in the FIR. Learned counsel for the applicant has submitted that the applicant has been falsely implicated in this case. The ingredients for constituting offence under Section 304-B IPC is not made out against the applicant. The cause of death of the deceased has been found to be asphyxia as a result of ante-mortem hanging. The deceased was not happy with her marriage with her husband and committed suicide on account of mis-adjustment with the family members of her matrimonial home also. The applicant has been falsely implicated in this case. There are general allegations against the applicant and other co-accused.

Counsel for the applicant has also submitted that regarding the factum of death by way of hanging there can be number of reasons like dispute with spouse, uncordial relationship with other members of matrimonial home, frustration, ill-health, etc., apart from demand of dowry and only the alleged demand of dowry cannot be considered as the only cause of death of deceased by way of hanging at this stage. He has not been assigned any specific role in this case. The applicant is in jail since 21.03.2020 and has no criminal history to his credit.

Learned A.G.A has opposed the bail application of the applicant.

Keeping in view the nature of the offence, argument advanced on behalf of the parties, evidence on record regarding complicity of the accused, larger mandate of the Article 21 of the Constitution of India and the dictum of Apex Court in the case of Dataram Singh Vs. State of U.P. and another reported in (2018) 3 SCC 22 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.

Let the applicant- Rakesh Nishad involved in Case Crime No. 181 of 202156 of 2020, under Sections- 498-A, 304-B IPC and Section 4 Dowry Prohibition Act, Police Station- Sultanpur Ghose, District- Fatehpur 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.

1. The applicant shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation or trial.
2. The applicant shall cooperate in the trial sincerely without seeking any adjournment.
3. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

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

Trial court is directed to conclude the trial of the applicant as expeditiously as possible preferably within a period of one year from the date of production of certified copy of this order.

Order Date :- 27.10.2023

RPD