

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44022 of 2023

Applicant :- Atique

Opposite Party :- State of U.P.

Counsel for Applicant :- Gayyoor Ali,Rajiv Sisodia

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

1. Heard Mr. Rajiv Sisodia, the learned counsel for applicant and the learned A.G.A. for State.

2. Perused the record.

3. This application for bail has been filed by applicant-Atique seeking his enlargement on bail in Case Crime No. 631 of 2022, under Sections 498-A, 304-B IPC and Sections 3/4 Dowry Prohibition Act, Police Station-Chandpur, District-Bijnor during the pendency of trial.

4. At the very outset, the learned A.G.A. submits that applicant is the husband of deceased. The marriage of applicant was solemnize with Shabnum (deceased) on 20.12.2015. However, after expiry of a period of 6 years, 8 months and 27 days from the date of marriage of applicant, an incident occurred on 07.09.2022 in which, the wife of applicant (deceased) died. As per the post mortem report of deceased, cause of death of deceased has been opined as ante-mortem throttling. Since applicant is the husband of deceased and an inmate of the house, therefore, the burden is upon applicant to not only explain the manner of occurrence but also his innocence in terms of Section 106 and 113-B of the Evidence Act. However, the applicant has miserably failed to discharge the said burden up to this stage. As such, no sympathy be shown by this Court in favour of applicant. The charge sheet has already been submitted and up to this stage, 4 prosecution witnesses of fact have been examined. Learned A.G.A. thus contends that interest of justice shall better be served in case, the court below is directed to conclude the trial itself expeditiously rather than enlarging the applicant on bail. As such, no indulgence be granted by this Court in favour of applicant.

5. When confronted with above, the learned counsel for applicant could not overcome the same. He has, however, tried to justify the prayer for bail with reference to the material on record.

6. Having heard, the learned counsel for applicant, the learned A.G.A. for State, upon perusal of record, evidence, nature and gravity of offence, complicity of accused, accusations made coupled with the fact that since the objections raised by the learned A.G.A. in opposition to the present application for bail could not be dislodged by the learned counsel for applicant with reference to the record, therefore, irrespective of the varied submissions urged by the learned counsel for applicant in support of the present application for bail, but without making any comments on the merits of the case, this Court does not find any good or sufficient ground to enlarge the applicant on bail.

7. As a result, present application for bail fails and is liable to be rejected.

8. It is accordingly **rejected**.

Order Date :- 11.12.2023

Vinay