

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44514 of 2023

Applicant :- Abhishek Kesarwani

Opposite Party :- State of U.P.

Counsel for Applicant :- Vindeshwari Prasad, Ramesh Chand

Counsel for Opposite Party :- G.A., Gulab Chandra
Dubey, Shriman Narayan Tiwari

Hon'ble Samit Gopal, J.

1. List revised.
2. Heard Sri Vindeshwari Prasad, learned counsel for the applicant, Sri S.N. Tiwari, learned counsel for the first informant and Sri Ajay Singh, learned AGA-I 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 **Abhishek Kesarwani**, seeking enlargement on bail during trial in connection with Case Crime No. 70 of 2023, under Sections 498-A, 304-B IPC and 3/4 D.P. Act, registered at P.S. Koirana, District Bhadohi.
4. The FIR of the matter was lodged on 12.07.2023 by Shiv Shnagr Kesarwani against the applicant and four other persons alleging therein that his daughter Pinki Kesarwani was married the applicant on 03.07.2022. After marriage his daughter beating, tortured and abused her for dowry. On 11.07.2023 he received information that the accused persons murder his daughter.
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 that the deceased committed suicide and died which is suggestive from the postmortem examination report wherein the deceased was found to have received a single ligature mark and the cause of death was opined as a result of antemortem hanging. It is argued that charge sheet in the matter has been submitted in which the Investigating Officer has exonerated the four other accused persons but has submitted charge sheet only against the applicant. It is further argued that the deceased was having love relationship with the

devar of her sister and used to remain in touch with him on mobile and after she was scolded and told not to indulge in the said activity she committed suicide. It is argued that the deceased wanted to marry Manglesh Kesarwani but due to financial position she could not marry him. He further argued that the applicant has no criminal history as stated in para 32 of the affidavit and is in jail since 12.07.2023.

6. Per contra, learned counsel for the first informant and learned counsel for the State vehemently opposed the prayer for bail. It is argued that the deceased died in her matrimonial house within one year and 7 days of marriage which is unnatural. It is further argued that the applicant is named in the FIR. It is argued that there is nothing on record to show that the deceased was relationship with someone. 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 in her matrimonial house within one year and 7 days which is unnatural. There is no reason disclosed by the applicant as to why his wife/deceased committed suicide. The applicant is named in the FIR in which charge sheet has been submitted against the applicant and there are allegations against him. 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 :- 3.11.2023

M. ARIF

(Samit Gopal, J.)