

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44361 of 2023

Applicant :- Ghanshyam @ Shiva

Opposite Party :- State of U.P.

Counsel for Applicant :- Pramod Kumar Srivastava, Manoj Kumar Srivastava

Counsel for Opposite Party :- G.A., Ranjeet Singh

Hon'ble Samit Gopal, J.

1. List revised.
2. Heard Sri Pramod Kumar Srivastava, learned counsel for the applicant, Sri Ranjeet Singh, learned counsel for the first informant and Sri Virendra Pratap Singh, 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 **Ghanshyam @ Shiva**, seeking enlargement on bail during trial in connection with Case Crime No. 206 of 2023, under Sections 498-A, 304-B IPC and 3/4 D.P. Act, registered at P.S. Karwi, District Chitrakoot.
4. Learned counsel for the State submits that he has received instructions in the matter for which he was granted time vide order dated 18.10.2023.
5. The FIR of the matter was lodged on 05.04.2023 by Bhaiya Lal against the applicant and three other persons alleging therein that the marriage of his daughter Deepa was solemnized with the applicant in the year 2016. After marriage she was having two children from their wedlock. On 04.04.2023 at about 08:00 am Deepa called him on phone told him that the accused persons are beating her and called him on which he went the house where the accused persons demanded money for motorcycle as dowry. He tried to counsel them and he told them that he would take his daughter on which the accused persons told him not to take now and they disgraced him after sent him back.
6. Learned counsel for the applicant argued that although the applicant is the husband of the deceased but he has been

implicated in the present case. It is argued that the allegation regarding demand of dowry has come for the first time in the FIR. It is further argued that the deceased was found to have received a single ligature mark on her body and the cause of death is asphyxia as a result of antemortem hanging which is suggestive of suicide. It is argued that co-accused Kamlesh, Besaniya and Golu Devi @ Uma Devi have been granted bail by co-ordinate Benches of this Court vide orders dated 04.08.2023, 11.08.2023 and 16.08.2023 passed in Crl. Misc. Bail Application Nos. 33651 of 2023 (Kamlesh Vs. State of U.P.), 35580 of 2023 (Besaniya Vs. State of U.P.) and 27100 of 2023 (Golu Devi @ Uma Devi Vs. State of U.P.) respectively, copy of the orders are annexed as annexure 9 to the affidavit. He further argued that the applicant has no criminal history as stated in para 17 of the affidavit and is in jail since 06.04.2023.

7. Per contra, learned counsel for the first informant and learned counsel for the State opposed the prayer for bail and argued that the applicant is the husband of the deceased. She died in her matrimonial house within seven years of marriage. It is argued that there is burden upon the applicant, particularly, he being husband of the deceased to discharge the same, however, up to this stage, the applicant has failed to discharge the said burden. 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.

8. 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 deceased died within seven years of marriage in her matrimonial house. The applicant has failed to discharge the burden regarding the death of his wife in his house. I do not find it a fit case for bail.

9. Considering the totality of the case in particular, nature of evidence available on record, I am not inclined to release the applicant on bail.

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

Order Date :- 2.11.2023

M. ARIF

(Samit Gopal, J.)