Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44562 of 2023

Applicant :- Ashwani Tiwari
Opposite Party :- State of U.P.
Counsel for Applicant :- Dev Prakash Sharma,Priyanka Devi
Counsel for Opposite Party :- G.A.,Anjali Jaiswal,Dhirendra Kumar Verma

Hon'ble Ajay Bhanot,J.

By means of the bail application the applicant has prayed to be enlarged on bail in Case Crime No.201 of 2023 at Police Station-Kotwali Nagar Mahoba, District-Mahoba under Sections 498A, 304B IPC and Section 3/4 of the D.P. Act. The applicant is in jail since 26.05.2023.

The bail application of the applicant was rejected by the learned trial court on 03.06.2023.

The following arguments made by Ms. Priyanka Devi, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Paritosh Kumar Malviya, learned AGA-I from the record, entitle the applicant for grant of bail:

1. The applicant is the husband of the deceased.

2. The applicant did not harass the deceased or demand dowry. They had a harmonious relationship.

3. The applicant and the victim had defied caste barrier when they got married to each other.

4. The family of the victim has opposed the marriage and

disowned the deceased.

5. The victim's family had disowned her after the latter's.

6. The victim was a sensitive lady who became depressed after her family severed their relations with her. The victim was also insulted at her brother's marriage.

7. On the fateful day, she succumbed to depression and took the extreme step of ending her life. She committed suicide by hanging.

8. The postmortem report opines the cause of death as asphyxia due to antemortem hanging.

9. Injuries depicted in the postmortem report consistent with hanging are:

(i) Nature of ligature mark.

(ii). No abnormality was detected in the hyoid bone.

10. The applicant did not aid or abet the suicide.

11. The prerequisites for attracting the presumption and reversing the burden of proof are not established in the facts and circumstances and evidence of the case.

12. The applicant does not have any criminal history apart from this case.

13. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the

investigation and undertakes to cooperate with the court proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant-Ashwani Tiwari be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

(i) The applicant will not tamper with the evidence or influence any witness during the trial.

(ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

Order Date :- 7.11.2023
Ashish Tripathi

Digitally signed by :-
ASHISH NAYAN TRIPATHI
High Court of Judicature at Allahabad