

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44793 of 2023

Applicant :- Pradeep Jauhari

Opposite Party :- State of U.P.

Counsel for Applicant :- Indra Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Indra Kumar Singh, learned counsel for the applicant and Sri Amar Nath Vishwakarma, learned Brief Holder for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 473 of 2023, under Sections 498A, 304B, 452, 323, 504, 506 IPC and under section 3/4 D.P. Act, Police Station Kotwali Nagar, District Etah, during pendency of the trial in the court below.

3. FIR of the present case was lodged against the applicant and his family members on 27.6.2023 through an application under section 156(3) Cr.P.C. dated 15.6.2023 and according to the FIR, marriage of the brother of the applicant was performed with the deceased on 25.11.2020 and after marriage, applicant and his family members tortured her for additional demand of Rs. Five lacs and due to non-fulfilment of demand of dowry, applicant and his family members turned out the deceased from her matrimonial home and thereafter she started living in her paternal home and on 8.3.2023 applicant alongwith his brother i.e. husband of the deceased and others came in the paternal home of the deceased and assaulted her and thereafter they were also challaned under section 151 Cr.P.C. and due to the injury caused by applicant and others deceased died on 6.6.2023.

4. Learned counsel for the applicant submitted that applicant is the jeth of the deceased and on the basis of false allegations, he has been made accused in the present matter.

5. He further submitted that admittedly, FIR of the present case was lodged after more than three months from the date of alleged assault through an application under section 156(3) Cr.P.C. and

even application under section 156 (3) Cr.P.C. was moved after three months.

6. He further submitted that from the perusal of the post mortem report it appears that deceased died due to septicemia and her lung was filled with pus and it appears that she died in her paternal home due to lung decease but subsequently on the basis of false allegation of demand of dowry and torture, applicant has been roped in the present matter.

7. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 28.7.2023.

8. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is Jeth of the deceased and he alongwith other accused persons after arriving in the paternal home of the deceased assaulted her and due to the assault made by them she died and as she died after three months from the assault, therefore, thereafter FIR of the present case was lodged through an application under section 156(3) Cr.P.C. but he fairly conceded that there is no specific allegation against the applicant and post mortem report suggests that deceased died due to septicemia and no external injury was found and according to the doctor, her lung was filled with pus.

9. I have heard learned counsel for the parties and perused the record of the case.

10. Considering the fact that applicant is jeth of the deceased and no specific allegation has been levelled against him and deceased at the time of alleged assault was in her paternal home and FIR was lodged through an application under section 156(3) Cr.P.C. after three months, in my view, applicant is entitled to be released on bail.

11. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

12. Let the applicant-**Pradeep Jauhari**, be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

13. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

14. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 26.10.2023

Ankita