

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44822 of 2023

Applicant :- Shuaib

Opposite Party :- State of U.P.

Counsel for Applicant :- Sharad Sharma

Counsel for Opposite Party :- G.A.,Rahul Singh Tomar

Hon'ble Samit Gopal,J.

1. List revised.
2. Heard Sri Sharad Sharma, learned counsel for the applicant, Sri Rahul Singh Tomar, learned counsel for the first informant, Sri Bare Lal Bind, learned AGA 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 Shuaib, seeking enlargement on bail during trial in connection with Case Crime No. 119 of 2023, under Sections 498A, 304B I.P.C. and 3/4 D.P. Act, registered at P.S. Civil Line, District Muzaffar Nagar.
4. The F.I.R. of the matter was lodged on 31.3.2023 by Shaukat Ali against Mohd. Shuaib (the applicant), Noorhahas (father-in-law), Mehrunnisa (mother-in-law), Fauziya (nanad), Iram (nanad) and Mohd. Kaif (devar) alleging therein that married of his daughter Rubina was solemnized with the applicant Shuaib on 13.12.2020. The accused persons were demanding a swift car and Rs.5 lakh as dowry due to which they used to trouble and torture his daughter. On 30.3.2023 at about 09:45 p.m. the accused persons murdered his daughter.
5. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case although he is husband of the deceased. It is argued that the deceased committed suicide and died which is also suggestive from the post mortem report wherein the doctor found single ligature mark on her body and cause of death was opined asphyxia as a result of ante mortem hanging. While placing para-23 and 28 of the affidavit it is argued that the deceased used to insist her mother to marry her brother Zishan with her sister-in-law Iram but her mother was not ready for it due to which she used to remain in depression. Further while placing para-24 of the affidavit it is argued that the deceased used to remain in

depression and as such she committed suicide. It is argued that even the factum of the statement of the deceased for marriage of her brother with her sister-in-law is mentioned during investigation. It is argued that there was never any demand of dowry whatsoever either from the deceased or her family members. It is argued that the applicant has no other criminal antecedents as stated in para-33 of the affidavit and is in jail since 1.4.2023.

6. Per contra, learned State counsel and learned counsel for the first informant opposed the prayer for bail and argued that the deceased died within 27 months of marriage in her matrimonial house and death is unnatural. It argued that the applicant is husband of the deceased, he is named in the F.I.R. and there are allegations against him.

7. After having heard learned counsels for the parties and perusing the record, it is evident that the applicant is husband of the deceased. The deceased died within 27 months of marriage in her matrimonial house. The death is unnatural. There is no convincing reason stated by the applicant for the deceased to commit suicide.

8. Looking to fact and circumstances of the case, nature of evidence and gravity of offence, I do not find it a fit case to release the applicant on bail.

9. Accordingly, the bail application is rejected.

(Samit Gopal,J.)

Order Date :- 6.11.2023

Naresh