

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45218 of 2023

Applicant :- Hajari

Opposite Party :- State of U.P.

Counsel for Applicant :- Kamala Kant Pandey, Shrawan Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Shrawan Kumar Pandey, learned counsel for the applicant and Sri Imran Khan, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 24 of 2022, under Sections 498A, 304B IPC and 3/4 D.P. Act, Police Station Saujana, District Lalitpur, during pendency of the trial in the court below.
3. FIR of the present case was lodged against the applicant and his family members and according to the FIR on 2.6.2023, informant received an information that his daughter hanged herself and when he arrived at spot then found that his daughter lying dead.
4. It is further mentioned in the FIR that applicant and his family members tortured her for dowry.
5. Learned counsel for the applicant submitted that on the basis of vague allegation of demand of dowry, applicant who is husband of the deceased has been made accused in the present matter alongwith his family members and in the FIR neither date of marriage has been disclosed nor what was demand of dowry if could be disclosed.
6. He further submitted that actually marriage of the applicant was performed with the deceased about a year before and since marriage, deceased was not happy as she did not want to marry with the applicant and her marriage was performed with the applicant against her wishes and only due to this reason, she committed suicide.
7. He further submitted that the post mortem report of the deceased

also suggests that she died due to hanging.

8. He further submitted that immediately after the incident father of the applicant informed the police and on his information inquest was conducted which is evident from the inquest report which is annexed as annexure-2 to the affidavit.

9. He further submitted that after several hours of the inquest, FIR of the present case was lodged at 21:29 hours in the night and this fact again clearly suggests that there was absolutely no demand of dowry and subsequently informant cooked up a false story.

10. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 6.6.2022 i.e. for almost one and half years.

11. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is husband of the deceased and his wife died within one year of her marriage under abnormal circumstances and there is also allegation of demand of dowry and therefore, considering the provisions of section 304-B IPC and section 113-B Indian Evidence Act, applicant should not be released on bail.

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

13. From the perusal of the record, it reflects that applicant is the husband of the deceased and his wife died within a year of her marriage and there was also allegation of demand of dowry but in the FIR, no specific demand of dowry could be disclosed and only in the statement under section 161 Cr.P.C. informant stated that there was a demand of motorcycle.

14. Further, on the information furnished by the father of the applicant, the inquest was conducted at 1 p.m. in the noon and after that FIR of the present case was lodged at 9:30 p.m. in the night and this fact shows the good conduct from the applicant side.

15. Further, applicant has taken specific defence that as deceased was not happy with her marriage with the applicant, therefore, she committed suicide and post mortem of the deceased also suggests that she died due to hanging.

16. Further, applicant is having no criminal history and he is in jail in the present matter since 6.6.2023 i.e. for almost one and half

years.

17. Therefore, considering the facts and circumstances of the case, discussed above, particularly the fact that applicant is husband of the deceased, in my view, applicant is entitled to be released on bail.

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

19. Let the applicant-**Hajari**, 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.

20. 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.

21. 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 :- 27.10.2023

Ankita