

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45266 of 2023

Applicant :- Mohammad Jubair

Opposite Party :- State of U.P.

Counsel for Applicant :- Amit Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

By means of the the bail application the applicant has prayed to be enlarged on bail in Case Crime No. 656 of 2022 (Session Trial No. 1072 of 2022) at Police Station- Izzatnagar, District- Bareilly under Sections 498A, 304B I.P.C. and Section 3/4 of Dowry Prohibition Act. The applicant is in jail since 04.08.2022.

The bail application of the applicant was rejected by the learned trial court on 03.10.2023.

The following arguments made by Shri Amit Kumar Srivastava, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Sri Ashish Ojha, learned AGA from the record, entitle the applicant for grant of bail:

1. The applicant is the husband of the deceased.
2. The applicant never harassed the deceased nor did he demand dowry.
3. The applicant and the victim had eloped and got married against the wishes of the latter's family.
4. The victim was disowned by her family members.

5. The deceased was a sensitive lady who became depressed after her family severed their relationship with her.

6. On the fateful day the deceased flew into a fit of rage and took the extreme step of ending her life. She committed suicide by hanging.

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

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

(i) Nature of ligature mark.

(ii). The hyoid bone was intact.

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

10. Prosecution evidence do not connect the applicant with the offence.

11. The prerequisites for attracting the presumption and the 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 the instant case.

13. The applicant is not flight risk. The applicant being law abiding citizen have always cooperated with the investigation and undertakes to join the trial proceedings. There is no possibility of their influencing witnesses,

tampering with the evidence or reoffending.

Learned A.G.A contends that no instructions have been forthcoming.

Liberty of citizens is too sacrosanct and cannot be held to ransom by apathy of the police officials. There is no cause for failing to provide instructions to the learned Government Advocate despite advance notice of the bail application.

The Senior Superintendent of Police, Bareilly shall take appropriate action against the erring police officials for failing to send appropriate instructions to the learned Additional Government Advocate despite advance notice of bail application and violating the directions of this Court in Sahil Vs. State of U.P. (Criminal Misc. Bail Application No. 19839 of 2021) as well as in Aditya Dubey alias Sachin Vs. State of U.P. (Criminal Misc. Bail Application No. 17969 of 2022) and the consequential orders passed by the Director General of Police, Government of U.P, Lucknow.

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- Mohammad Jubair 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 :- 27.10.2023

Pravin