

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 55288 of 2022

Applicant :- Amit

Opposite Party :- State of U.P.

Counsel for Applicant :- Babul Kumar Sharma

Counsel for Opposite Party :- G.A., Ashvani Tripathi

Hon'ble Dr. Gautam Chowdhary, J.

1. Heard learned counsel for the applicant, learned A.G.A for the State, Sri Ashvani Tripathi, learned counsel for the first informant and perused the record.

2. Learned counsel for the applicant contends that the applicant is the husband of deceased, who has been falsely implicated in the instant case. The applicant never demanded dowry or did he torture the deceased. In fact, the applicant was living happily with his wife. The applicant is bereaved by the death of his his and prays for peace of the departed soul. However, for the purpose of the bail application, learned counsel submits that by the efflux of time, the trial began, in which the statements of fact i.e. P.W.1, P.W.2, P.W.3, P.W.4 and P.W.5 and that there are no chances of tampering with the evidence. It is further submitted that the deceased was a temperamental lady who was prone to extreme reactions even on trivial issues. On the fateful day apparently after minor disagreement with her husband, the deceased committed suicide in a fit of rage by hanging herself. The cause of death recorded in the post mortem report is asphyxia due to ante mortem hanging. The hyoid bone was found to be intact. The applicant did not abet or instigate the deceased to commit the suicide. The

applicant does not have any criminal history apart from the instant case. The applicant resides in Jhansi with his family. The applicant is not a flight risk. The applicant is a law abiding citizen who has cooperated with the police investigation and shall join the trial proceeding. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending. The applicant is in jail since 30.05.2022.

3. Per contra, learned A.G.A. as well as learned counsel for the informant have opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence. In case the applicant is released on bail he will again indulge in similar activities and will misuse the liberty of bail.

4. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties, nature of evidence, and all attending facts and circumstances of the case, without expressing any opinion on merits of the case, this Court is of the view that the applicant has made out a case for bail. Hence the bail application is allowed.

5. Let applicant **Amit** involved in Case Crime No.91 of 2022 under Sections 498A, 323, 504, 304B I.P.C., and Section 5/6 of Dowry Prohibition Act, Police Station Sipari Bazar, District Jhansi, be released on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

I. The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence and the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

II. The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

III. In case, the applicant misuses the liberty of bail and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

IV. The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

6. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 2.11.2023

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