

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45467 of 2023

Applicant :- Tejpal

Opposite Party :- State of U.P.

Counsel for Applicant :- Abhilasha Singh, Ashutosh Yadav, Shyam Lal

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Ashutosh Yadav, learned counsel for the applicant and Sri Rajeev Dhar Dwivedi, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 214 of 2023, under Sections 498-A, 304-B IPC & 3/4 D.P. Act, Police Station- Kotwali Dehat, District- Etah, during pendency of the trial in the court below.
3. FIR of the present case was lodged against applicant and his family members and according to the FIR, marriage of the son of the applicant was performed with the deceased in the year 2018 and after marriage, applicant and his family members tortured the deceased for dowry and on 14.05.2023 for want of dowry, they have committed her murder.
4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and only being father-in-law of the deceased, he has been made accused in the present matter. He further submitted that applicant neither demanded any dowry nor he ever tortured the deceased in any manner.
5. He further submitted that actually deceased was not ready to attend the marriage of the sister of her husband and only due to this reason, some dispute arose between husband and wife and she hanged herself. He further submitted that post-mortem report of the deceased also suggests that she died due to hanging and her hyoid bone was also found intact.
6. He further submitted that although, post-mortem report of the deceased shows that apart from the ligature mark, deceased also

sustained two contusions, one on her parietal region and one on her thigh but these injuries can be sustained when she was trying to commit suicide.

7. He further submitted that neither in the FIR nor in the statement of the informant recorded under Section 161 Cr.P.C., there was any specific allegation of demand of dowry and on the basis of vague allegation of demand of dowry, applicant along with his other family members has been made accused in the present matter

8. He further submitted that applicant is senior citizen aged more than 60 years and he is not having any criminal history and is in jail since 16.07.2023.

9. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is the father-in-law of the deceased and his daughter-in-law died within five years of her marriage under abnormal circumstances in her matrimonial home and there is also allegation of demand of dowry but could not dispute the fact that neither in the FIR nor in the statement of the witnesses, there was any specific allegation of demand of dowry could be disclosed. He further could not dispute the fact that as per the autopsy surgeon, deceased died due to hanging and her hyoid bone was also found intact.

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

11. However, daughter-in-law of the applicant died within five years of her marriage under abnormal circumstances but from the FIR and statements of the witnesses, it appears that only vague allegation of demand of dowry was levelled against the applicant and his family members.

12. Further, applicant is the father-in-law of the deceased and there is no specific allegation against him and as per the autopsy surgeon, deceased died due to hanging.

13. However, from the post-mortem report of the deceased, it reflects that apart from the ligature mark, deceased also sustained two contusions, one on her parietal region and one on her thigh but argument advanced by learned counsel for the applicant that possibility cannot be ruled out that when deceased was trying to commit suicide then she might have sustained these injuries, cannot be completely brushed aside at this stage.

14. Further, applicant is senior citizen aged more than 60 years and he is not having any criminal history and is in jail since 16.07.2023.

15. Therefore, considering the facts and circumstances of the case discussed above, in my view applicant is entitled to be released on bail.

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

17. Let the applicant- **Tejpal** 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.

18. 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.

19. 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 :- 28.10.2023

KK Patel