

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46178 of 2023

Applicant :- Monu

Opposite Party :- State of U.P.

Counsel for Applicant :- Haya Rizvi

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Ms. Haya Rizvi, learned counsel for the applicant and Dr. S.B. Maurya, learned AGA-I for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 231 of 2021, under Sections 498-A, 304-B IPC & 3/4 D.P. Act, Police Station- Agauta, District-Bulandshahr, during pendency of the trial in the court below.

3. FIR of the present case was lodged against applicant and his father and according to the FIR, marriage of the applicant was performed with the deceased on 13.12.2018 and after marriage, applicant and his father tortured the deceased for dowry and due to want of dowry, they have committed her murder.

4. Learned counsel for the applicant submitted that applicant is the husband of the deceased and totally on the basis of false allegation of demand of dowry and torture, he has been made accused in the present matter. She further submitted that neither in the FIR nor in the statement recorded under Section 161 Cr.P.C., informant could disclose the demand of dowry and it appears that on the basis of vague allegation of demand of dowry, applicant has been made accused in the present matter alongwith his father.

5. She further submitted that actually deceased i.e. wife of the applicant insisted for separate living but when applicant refused to accept her demand then she in anger committed suicide by hanging herself. She further submitted that post-mortem report of the deceased also suggests that she died due to hanging.

6. She further submitted that applicant is not having any criminal history and he is in jail since 31.10.2021 i.e. for more than two years.

7. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is the husband of the deceased and his wife died within three years of her marriage under abnormal circumstances but could not dispute the fact that neither in the FIR nor in the statement recorded under Section 161 Cr.P.C., informant could disclose any specific demand of dowry alleged to have been made by the applicant and his father. He further could not dispute the fact that applicant is in jail for more than two years and as per the post-mortem report, deceased died due to hanging.

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

9. However, applicant is the husband of the deceased and his wife died within three years of her marriage in her matrimonial home under abnormal circumstances but from the FIR and from the statement of the informant recorded under Section 161 Cr.P.C., it appears that only vague allegation of demand of dowry could be made and no specific allegation of demand of dowry has been made by him either in the FIR or in the statement recorded during investigation. Further, post-mortem report of the deceased suggests that she died due to hanging, therefore, defence taken by the applicant cannot be completely ruled out at this stage.

10. Further, applicant is not having any criminal history and he is in jail since 31.10.2021 i.e. for more than two years.

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

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

13. Let the applicant- **Monu** 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.

14. 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.

15. 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 :- 1.11.2023

KK Patel