

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46026 of 2023

Applicant :- Yogesh @ Yougesh @ Bhola

Opposite Party :- State of U.P.

Counsel for Applicant :- Mahesh Prasad Yadav, Vivek Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Sri Dinesh Kumar Gupta, Advocate filed his power on behalf of the informant, today in the Court, which is taken on record.
2. Heard Sri Mahesh Prasad Yadav, learned counsel for the applicant, Sri Dinesh Kumar Gupta, learned counsel for the informant and Sri Manoj Kumar Singh, learned Brief Holder for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 73 of 2023, under Sections 498A, 304B IPC and 3/4 D.P. Act, Police Station Binvar, District Hamirpur during pendency of the trial.
4. FIR of the present case was lodged against applicant and his family members and according to the FIR marriage of the sister of the informant was performed with the applicant on 14.04.2022 and after marriage applicant and his family members tortured her for dowry and on 27.03.2023 when uncle and one another relative of the informant had gone to the village of the deceased, then they found that on a tractor trolley five persons were sitting and they concealed something in the plastic and after removing the same, it was found that it was the dead body of his sister i.e. deceased.
5. Learned counsel for the applicant submitted that applicant is husband of the deceased and entire allegation of demand of dowry and torture made against the applicant is totally false and baseless and on the basis of vague allegation of demand of dowry, FIR of the present case was lodged, however, when the statement of the witnesses were recorded under Section 161 Cr.P.C. then they started making allegation that there was demand of Rs. 4 lakhs.
6. He further submits that actually some dispute arose between

husband and wife due to cultivation of crop as deceased was not ready to provide any help to the applicant and his family members in cultivation of the crop and only due to this dispute, deceased committed suicide.

7. He further submits that after the incident father of the applicant informed the police and on his information on 27.03.2023 inquest report was prepared and this fact is evident from the inquest report, which has been annexed as Annexure-2 to the affidavit.

8. He further submits that in the light of the inquest report the fact mentioned in the FIR that the dead body of the deceased was recovered from the tractor while applicant and his other family members were taking the same appears to be totally false.

9. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 31.03.2023 i.e. for more than six months.

10. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submits that applicant is husband of the deceased and his wife died within one year of her marriage under abnormal circumstances in her matrimonial home and there is also allegation of demand of dowry but both the counsels could not dispute the fact that after the incident father of the applicant himself informed the police and on his information inquest of the deceased was conducted.

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

12. However, applicant is husband of the deceased and his wife died within one year of her marriage in her matrimonial home under abnormal circumstances and there is also allegation of demand of dowry but from perusal of the post mortem report it appears that deceased died due to hanging and as per defence she committed suicide and with regard to her death an information was given by the father of the applicant and on his information inquest was conducted and this fact is evident from the inquest report, which has been annexed along with instant bail application, therefore, I find force in the argument advanced by learned counsel for the applicant that inquest report of the deceased belies the allegation levelled in the FIR that on 27.03.2023 in the night when uncle of the informant along with his other relative arrived at the village of the applicant then they found that applicant and his relatives were taking the dead body of the deceased on the tractor by

concealing the same.

13. The defence taken by the applicant cannot be completely brushed aside at this stage. Further, applicant is not having any criminal history and in the present matter he is in jail since 31.03.2023 i.e. for more than six months.

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

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

16. Let the applicant - **Yogesh @ Yougesh @ Bhola** 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.

17. 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.

18. 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 :- 31.10.2023

AK Pandey