

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47689 of 2023

Applicant :- Lalit

Opposite Party :- State of U.P.

Counsel for Applicant :- Manvendra Singh

Counsel for Opposite Party :- G.A.,Gyanendra Singh Kanaujiya

Hon'ble Sameer Jain,J.

1. Heard Sri Manvendra Singh, learned counsel for the applicant; Sri Gyanendra Singh Kanaujiya, learned counsel for the informant and Sri Kunwar Tejendra Bahadur, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 85 of 2023, under Sections 498-A, 304-B, 323 & 506 IPC & 3/4 D.P. Act, Police Station Aung, District Fatehpur, during pendency of the trial in the court below.

3. FIR of the present case was lodged against the applicant and his family members on 25.5.2023 and according to the FIR, marriage of the applicant was performed with the daughter of the informant on 13.3.2023 and after marriage, applicant and his family members started torturing her for bullet motorcycle and Rs. One lakh and in the intervening night of 16/17.5.2023, informant received an information that applicant and his family members forcibly administered some poisonous substance to her daughter and on 17.5.2023, devar of the informant when went to the house of applicant then found that daughter of the informant was in serious condition and thereafter he has taken her to the hospital and in the hospital doctor declared her dead.

4. Learned counsel for the applicant submitted that applicant is husband of the deceased and on the basis of false allegation of demand of dowry and torture, he has been made accused in the present matter.

5. He further submitted that deceased died on 18.5.2023 but in spite of that FIR of the present case was lodged on 25.5.2023 i.e. after about a week and this inordinate delay in lodging the FIR clearly suggests that after about a week a false story of torture and demand of dowry has been cooked up by the informant and

applicant and his family members have been made accused in the present matter.

6. He further submitted that actually marriage of the applicant was performed with the deceased about two months before and since marriage, she was not happy as her marriage was performed with the applicant against her wishes and only due to this reason, she consumed some poisonous substance and died.

7. He further submitted that after the incident applicant informed the informant and on his information, uncle of the deceased arrived at spot and thereafter applicant alongwith him has taken the deceased to the hospital and this fact is even evident from the memo of the hospital dated 18.5.2023 which has been annexed as annexure-2 to the affidavit.

8. He further submitted that even at the time of inquest report, applicant was present alongwith his other family members and he alongwith the uncle of the deceased was witness of the inquest and this fact is evident from the inquest report which has been annexed as annexure-3 to the affidavit.

9. He further submitted that applicant is poor husband and he also lost his wife within two months of his marriage and he is not having any previous criminal history and he fully explained the abnormal death of his wife.

10. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 7.6.2023.

11. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that within two months of her marriage, wife of the applicant died under abnormal circumstance and there is also allegation of demand of dowry but both the counsels could not dispute the fact that FIR of the present case was lodged after seven days and no proper explanation has been given in this regard and from the memo of the hospital and inquest report, it reflects that applicant accompanied the uncle of the deceased up to the hospital and he was present at the time of inquest and he was also one of the inquest witnesses.

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

13. However, applicant is husband of the deceased and his wife

died within two months of her marriage under abnormal circumstances by consuming some poisonous substance and there is also allegation of demand of dowry but from the record, it reflects that applicant has taken the deceased to the hospital alongwith Uncle of the deceased and during inquest, he was present and he was one of the inquest witnesses and FIR of the present case was lodged after seven days and all these facts shows the good conduct of the applicant. Further considering the delay in lodging the FIR and conduct of the applicant defence taken by the applicant cannot be completely brushed, aside, at this stage.

14. Further, applicant is having no previous criminal history and he is in jail in the present matter since 7.6.2023.

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-**Lalit**, 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.