

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 56383 of 2022

Applicant :- Zulfiqar

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohammad Iliyas, Mazhar Ullah, Mohammad Danish

Counsel for Opposite Party :- G.A., Chandra Prakash Pandey, Shailesh Kumar

Hon'ble Sameer Jain, J.

1. Heard Sri Mazhar Ullah, learned counsel for the applicant; Sri Shailesh Kumar, learned counsel for the informant and Sri Ghanshyam Mishra, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 68 of 2022, under Sections 498A, 323, 304(b) IPC read with section 3/4 D.P. Act, Police Station Bilari, District Moradabad during pendency of the trial in the court below.
3. FIR of the present case was lodged against the applicant and his family members and according to the FIR, marriage of the applicant was performed with the sister of the informant on 14.3.2021 and after marriage applicant and his family members started torturing her for dowry and on 28.2.2022 informant received an information that his sister is ill and when he arrived at her matrimonial home then found that she has died.
4. Learned counsel for the applicant submitted that the entire allegations made against the applicant are totally false and baseless and applicant is husband of the deceased and only being husband of the deceased, he has been made accused in the present matter.
5. He further submitted that actually marriage of the applicant was performed with the deceased about a year before and applicant could not become aware why deceased was not happy with the applicant and on the date of incident he was not present at home and in his absence his wife i.e. deceased consumed some poisonous substance and when applicant received this information then he immediately rushed her to the hospital and this fact is evident from the statement of the doctor recorded during

investigation.

6. He further submitted that applicant is having no previous criminal history and he is in jail in the present matter since 11.4.2022 i.e. for last one and a half year.

7. Per contra, learned AGA and learned counsel for the informant opposed the prayer for bail and submitted that applicant is the husband of the deceased and his wife died within one and half year of marriage under abnormal circumstances and there is also allegation of demand of dowry.

8. They further, submits that post mortem report suggests that deceased died due to consumption of chemical as she sustained chemical burn and her viscera was also preserved and now viscera report is on record and according to it due to the consumption of Sulfuric Acid deceased died.

9. They further submitted that it is not possible that deceased herself consumed Sulfuric Acid and therefore, applicant who is husband of the deceased should not be released on bail.

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

11. Applicant is husband of the deceased and his wife died due to consumption of the chemical (Acid) within one year of her marriage in her matrimonial home and there is also allegation of demand of dowry.

12. From the post mortem report it appears that deceased died due to shock and hemorrhage as a result of chemical burn which according to the doctor she sustained due to consumption of the chemical and her viscera was also preserved and as per viscera report which was produced by the learned AGA during the course of argument deceased died due to consumption of sulfuric acid.

12. I find force in the argument advanced by learned counsel for the informant and the learned AGA that it is hard to believe at this stage that deceased herself consumed sulfuric acid.

13. Therefore, considering the facts and circumstances of the case discussed above, in my view applicant who is husband of the deceased is not entitled to be released on bail.

14. Accordingly, the instant bail application stands ***rejected***.

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 :- 12.12.2023

Ankita