

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46992 of 2023

Applicant :- Mahendra Pratap

Opposite Party :- State of U.P.

Counsel for Applicant :- Tufail Hasan

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Tufail Hasan, learned counsel for the applicant and Sri Ravi Kant Kushwaha, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 359 of 2022, under Sections 498-A, 304-B IPC and 3/4 D.P. Act, Police Station Ghiror, District Mainpuri, 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 deceased on 11.12.2020 and after marriage, applicant and his family members tortured her for a four wheeler and on 29.12.2022, informant received an information that applicant and his family members committed the murder of the deceased for want of dowry.

4. Learned counsel for the applicant submitted that the entire allegations made against the applicant are totally false and only being husband of the deceased he has been made accused in the present matter.

5. He further submitted that deceased suffered with the problem of chest pain and she used to consume medicines and on the date of incident after consuming medicine, she suddenly became serious and when applicant taken her to the hospital then doctor declared her dead.

6. He further submitted that during post mortem, cause of death could not be ascertained and therefore, viscera was preserved.

7. He further submitted that it appears, after the death of the deceased his father i.e. informant of the case in haste lodged the

FIR of the present case but when he knew the real facts then moved an application to the Investigating Officer and in the application he stated that deceased was suffering with some illness and she consumed some intoxicated medicines and thereafter she became serious and died.

8. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 22.5.2023.

9. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is the husband of the deceased and his wife died within two years of her marriage in her matrimonial home under abnormal circumstances and there is also allegation of demand of dowry.

10. He further submitted that although it appears that subsequently informant filed an affidavit in favour of the applicant but it appears that he has been won over by the applicant and the alleged affidavit appears to be false and according to the viscera report which is now available, deceased died due to consumption of poison.

11. He further submitted that in the light of the viscera report of the deceased even the defence taken by the applicant apparently appears to be false and therefore, he should not be released on bail.

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

13. However, from the perusal of the record, it appears that after lodging the FIR of the present case the informant i.e. father of the deceased filed an affidavit in favour of the applicant but from perusal of the viscera report of the deceased which was produced by learned AGA it appears that she died due to consumption of insecticide, therefore, defence taken by the applicant as well as contents of the affidavit filed by the informant of the case, prima facie, appears to be false and therefore, I find force in the argument advanced by learned AGA that it appears, applicant has won over the informant.

14. Further, applicant is the husband of the deceased and his wife died within two years of her marriage in her matrimonial home under abnormal circumstances and there was also allegation of demand of dowry.

15. Therefore, considering the facts and circumstances of the case,

discussed above, in my view, applicant is not entitled to be released on bail.

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

17. 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 :- 3.11.2023

Ankita