

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47774 of 2023

Applicant :- Tularam

Opposite Party :- State of U.P.

Counsel for Applicant :- Pradeep Kumar Sharma, Amrita Singh

Counsel for Opposite Party :- G.A., Ashutosh, Pavan Kumar

Hon'ble Sameer Jain, J.

1. None appeared on behalf of the informant even in revised call.
2. Heard Shri Sanjay Kumar Mishra, Advocate holding brief of Shri Pradeep Kumar Sharma, learned counsel for the applicant, Shri Amar Nath Vishwakarma, learned Brief Holder for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No.251 of 2023, under Section 498-A, 304-B IPC & Sections 3/4 POCSO Act, Police Station Bhojipura, District Bareilly, during pendency of the trial in the court below.
4. FIR of the present case was lodged on 17.04.2023 against applicant and his family members and according to the FIR, marriage of the sister of the informant was solemnized with the son of the applicant on 02.06.2018 and after solemnization of the marriage, unfortunately son of the applicant died and after the death of the first husband, the marriage of the sister of the informant was solemnized with second son of the applicant i.e. her devar and after marriage, applicant and his family members started torturing her for Rs.4,00,000/- and on 17.04.2023, they have committed her murder by hanging her.

5. Learned counsel for the applicant submits that applicant is father-in-law of the deceased and entire allegations made against him are totally false and baseless and on the basis of general allegation, he has been made accused in the present matter.

6. He further submits that the marriage of the sister of the informant was solemnized with second son of the applicant i.e. her devar after the death of his first husband, therefore, there was absolutely no occasion for the applicant to make demand of dowry.

7. He further submits that unfortunately the first husband of the deceased died and thereafter her marriage was solemnized with her devar and therefore, she started living in depression and consequently she committed suicide by hanging herself.

8. He further submits that post-mortem report also suggests that deceased died due to hanging.

9. He further submits that the co-accused Smt. Asha, who is mother-in-law of the deceased, has already been released on bail by Co-ordinate Bench of this Court vide order dated 17.11.2023 passed in Criminal Misc. Bail Application No.47322 of 2023.

10. He further submits that applicant is not having any previous criminal history and he is in jail in the present matter since 13.09.2023.

11. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts as advanced by learned counsel for the applicant.

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

13. Considering the fact applicant is father-in-law of the deceased and there is no specific allegation against him and post-mortem report also suggests that deceased died due to hanging and co-

accused Smt. Asha, who is mother-in-law of the deceased, has already been released on bail and he is in jail since 13.09.2023, in my view, applicant is entitled to be enlarged on bail.

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

15. Let the applicant- **Tularam**, 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.

16. 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.

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 :- 7.12.2023/Zafar