

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48730 of 2023

Applicant :- Abdul Hameed

Opposite Party :- State of U.P.

Counsel for Applicant :- Surendra Mohan Mishra, Vishveshwar Mani Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. List revised.
2. Heard Sri Surendra Mohan Mishra, learned counsel for the applicant and Sri Ajay Singh, learned A.G.A.-I for the State and perused the material on record.
3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- **Abdul Hameed**, seeking enlargement on bail during trial in connection with Case Crime No. 11 of 2023, under Sections 498-A, 304-B I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station Uska Bazar, District Siddharth Nagar.
4. The first information report of the present matter was lodged on 15.01.2023 by Lal Mohammad against Abdul Wahid, Hadisun, Kalimunnisha and Apsana alleging therein that his daughter Momina Khatoon was married to the applicant around three years back in which he had given gifts and dowry but the applicant and his entire family since then have been torturing his daughter in various ways and were demanding a four wheeler as dowry. On 14.01.2023 Abdul Wahid the devar of his daughter and other persons told his daughter that Abdul Hameed has called up and said that she may call up her father and ask for Rs. 3,00,000/- immediately or else she would be murdered on which his daughter called him on phone and told him about it. On the day of lodging of the first information report at 7 a.m. he called his daughter but the phone was not received, then he called many times but it was not picked up and on having suspicion he reached her house and found his daughter to be murdered.
5. Learned counsel for the applicant argued that the applicant is the husband of the deceased Momina Khatoon. He is not named in the first information report. It is argued that there is no allegation whatsoever against the applicant in the first information report of demand of dowry, torture & harassment of the deceased and even of murdering the deceased. It is argued that the deceased committed suicide and died which is suggestive from the postmortem examination report, wherein, the deceased has received a single ligature mark on her body and the cause of death has been opined as asphyxia as a result of antemortem hanging. The implication of the applicant has surfaced in the matter during investigation. It is argued that the applicant used to go abroad to UAE for his livelihood. There is no allegation whatsoever against the applicant in the

present matter. The applicant has no criminal history as stated in para 23 of the affidavit and is in jail since 27.07.2023.

6. *Per contra*, learned counsel for the State opposed the prayer for bail and argued that the applicant is the husband of the deceased. The deceased died within three years of marriage in her matrimonial house. The death is unnatural. There are allegations of demand of dowry by the applicant in the first information report.

7. After having heard learned counsel for the parties and perusing the record, it is evident that there are allegations against the applicant of torture and demand of dowry from the deceased. Prior to the incident the applicant had demanded dowry which was communicated by the deceased to her parents. The deceased died within seven years of marriage in her matrimonial house. The death is unnatural.

8. Looking to the facts and circumstances of the case, this Court does not find it a fit case for bail, hence, the bail application is **rejected**.

Order Date :- 16.11.2023

AS Rathore

(Samit Gopal,J.)