

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48132 of 2023

Applicant :- Arpit

Opposite Party :- State of U.P.

Counsel for Applicant :- Anand Pati Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Shri Anand Pati Tiwari, learned counsel for the applicant and Shri Imran Khan, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.193 of 2022, under Sections 498-A, 304-B IPC & Section 3/4 D.P. Act, Police Station Sahayal, District Auraiya, during pendency of the trial in the court below.

3. FIR of the present case was lodged on 03.11.2022 against applicant and his family members and according to the F.I.R., marriage of the applicant was performed with the daughter of the informant on 08.03.2019 and after solemnization of the marriage, applicant and his family members started torturing her for a motorcycle and Rs.2,00,000/- and on 03.11.2022 informant received information that his daughter has died. It is further mentioned in the F.I.R. that applicant and his family members committed murder of his daughter.

4. Learned counsel for the applicant submits 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 alongwith his family members. He further

submits that actually deceased i.e. wife of the applicant always insisted to leave separately but as alongwith the applicant, his parents also resided, therefore, applicant was unable to accept her proposal and only due to this reason she committed suicide by hanging herself.

5. He further submits that post-mortem of the deceased however suggests that deceased sustained one lacerated wound on her parietal region apart from the ligature mark but it appears that when she was trying to commit suicide then she sustained this injury.

6. He next submits that even as per the opinion of the autopsy surgeon, deceased died due to hanging.

7. He next submits that applicant is not having any criminal history and he is in jail in the present matter since 27.03.2023, therefore, he may be released on bail.

8. Per contra, learned AGA opposed the prayer for bail and submits that applicant is husband of the deceased and his wife died within four years of her marriage in her matrimonial home under abnormal circumstances and there is also allegation of demand of dowry, therefore, considering the provisions of Section 304-B I.P.C. and Section 113- B of the Indian Evidence Act, applicant should not be released on bail.

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

10. From perusal of the record, it reflects that applicant is husband of the deceased and his wife died within four years of her marriage in her matrimonial home under abnormal circumstances and there is also allegation of demand of dowry and post-mortem of the deceased also suggests that apart from the ligature mark, she also sustained one lacerated wound on her

parietal region.

11. Further, as per the applicant, deceased i.e. his wife committed suicide due to the reason that she used to insist to leave separately with his parents but defence taken by applicant appears to be vague and general in nature.

12. Further, however, from the post-mortem report of the deceased, it appears that deceased died due to hanging but suicidal death also attracts the provisions of Section 304-B I.P.C. as it is also an abnormal death.

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 enlarged on bail.

14. Accordingly, without expressing any opinion on the merits of the case, the instant bail application filed by applicant-**Arpit** is **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 :- 21.11.2023

Zafar