

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48192 of 2023

Applicant :- Anil Chauhan

Opposite Party :- State of U.P.

Counsel for Applicant :- Mani Ram Verma, Sudhir Kumar Agarwal

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Shri Sudhir Kumar Agarwal, learned counsel for the applicant and Shri Rajeev Dhar Dwivedi, learned A.G.A. for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.384 of 2022, under Sections 498-A, 306 IPC & Section 3/4 D.P. Act, Police Station Chiluatal, District Gorakhpur, during pendency of the trial in the court below.
3. FIR of the present case was lodged on 06.09.2022 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 05.06.2015 and after solemnization of the marriage, applicant and his family members started torturing her for dowry and on 23.06.2022 informant received information that forcibly poison has been administered to his daughter by the applicant and his family members and after receiving the information when informant arrived at her in-laws house then he taken his daughter to the hospital where on 25.06.2022 his daughter died.
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. He further submits that initially F.I.R. of the present case was lodged, under Sections 498-A, 304-B I.P.C. and Sections 3/4 D.P. Act but during investigation when it was found that marriage of the applicant was performed with the deceased beyond seven years then case was converted under Section 306 I.P.C.

5. He further submits that admittedly deceased died on 25.06.2022 but F.I.R. of the present case was lodged on 06.09.2022 i.e. after more than two and a half months from the death of the deceased and no proper explanation has been given in this regard. He further submits that from the perusal of the inquest report of the deceased, it appears that at the time of inquest applicant was present and even according to the F.I.R., applicant also participated in the funeral of the deceased.

6. He next submits that all these facts clearly suggests that after two and a half months on the basis of false allegation applicant has been made accused in the present matter alongwith his family members.

7. He further submits that from perusal of the viscera report of the deceased, it appears that she died due to consumption of Zinc Phosphide poison and it appears that she consumed the poison and committed suicide. He next submits that when she consumed the poison then at that time applicant was not present at home. He further submits that however F.I.R. of the present case was lodged in the month of September, 2022 but after lodging of the F.I.R., compromise was executed between the parties, which has been annexed as Annexure No.9 to the affidavit and only due to the compromise earlier, applicant could not appear before the trial court and even during investigation, no attempt was made by the police to arrest him.

He further submits that on 29.08.2023 suddenly police arrested the applicant and since then he is in jail. He further submits that applicant is not having any previous criminal history, 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 due to the consumption of poison and there is also allegation of demand of dowry but could not dispute the fact that during investigation the case was converted under Section 306 I.P.C. and F.I.R. of the present case was lodged after two and a half months after the death of the deceased.

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

10. However, applicant is husband of the deceased and there is also allegation of demand of dowry but from perusal of the viscera report of the deceased, it appears that deceased died due to consumption of poison and F.I.R. of the present case was lodged after two and a half months after the death of the deceased. Further, it also reflects from the record that at the time of inquest applicant was present and applicant also participated in the funeral of the deceased.

11. Further, initially F.I.R. of the present case was lodged, under Sections 498-A, 304-B I.P.C. and Sections 3/4 D.P. Act but during investigation when it was found that marriage of the applicant was performed with the deceased more than seven years before then case was converted under Section 306 I.P.C. and applicant at present in jail for offence under Sections 498-A, 306 I.P.C. and Sections 3/4 D.P. Act.

12. Therefore, considering the facts and circumstances of the

case, discussed above, in my view, applicant, who is husband of the deceased, is entitled to be enlarged on bail.

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

14. Let the applicant-**Anil Chauhan**, 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.

15. 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.

16. 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