

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48889 of 2023

Applicant :- Omkar

Opposite Party :- State of U.P.

Counsel for Applicant :- Alok Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Alok Singh, learned counsel for the applicant and Sri Jhamman Ram, learned AGA-I for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 0169 of 2022, under Sections 498A, 304B IPC and Section 3/4 D.P. Act, Police Station Sirsaganj, District Firozabad during pendency of the trial.

3. FIR of the present case was lodged against applicant and his family members and according to the FIR marriage of the applicant was performed with the daughter of the informant about eight months before and after marriage applicant and his family members tortured her for additional demand of dowry and on 12.04.2022 informant received an information that his daughter has died and when he arrived at the house of the applicant then he found that due to the demand of additional dowry applicant and his family members committed her murder.

4. Learned counsel for the applicant submitted that applicant is husband and on the basis of false allegation of demand of dowry, he has been made accused in the present matter. He further submits that FIR of the present case is based on vague facts and no specific demand of additional dowry could be disclosed in it.

5. He further submits that actually deceased was obstinate and stubborn nature lady and on the date of incident she insisted to go in her paternal home but when applicant refused, then in anger she committed suicide.

6. He further submits that post mortem report of the deceased also suggests that deceased died due to hanging. He further submits that during trial PW-1, the informant i.e. father of the deceased and

PW-2 her mother both have declared hostile.

7. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 13.04.2022 i.e. for more than one and half years.

8. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is husband of the deceased and his wife died within eight months of her marriage in her matrimonial home under abnormal circumstances and there is also allegation of demand of dowry but could not dispute the fact that as per post mortem deceased died due to hanging and during trial informant and mother of the deceased both have declared hostile and applicant is in jail since 13.04.2022 i.e. for more than one and half years.

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

10. However, from the record, it appears that applicant is husband of the deceased and his wife died within eight months of her marriage under abnormal circumstances in her matrimonial home and there is also allegation of demand of dowry but it appears that no specific demand of dowry could be disclosed in the FIR and post mortem report of the deceased also suggests that deceased died due to hanging.

11. Further, during trial father and mother of the deceased have declared hostile and applicant is in jail since 13.04.2022 i.e. for more than one and half years.

12. Therefore, considering the facts and circumstances of the case discussed above, particularly the fact that father i.e. informant and mother of the deceased have declared hostile during trial and applicant is in jail since 13.04.2022 i.e. for more than one and half years, in my view, applicant is entitled to be released on bail.

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

14. Let the applicant - **Omkar** 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 :- 17.11.2023

AK Pandey