

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47930 of 2023

Applicant :- Manoj Kumar Chaurasiya

Opposite Party :- State of U.P.

Counsel for Applicant :- Sunil Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Sunil Singh, learned counsel for the applicant and Sri Rajeev Dhar Dwivedi, learned AGA for the State.

2. The instant bail application has been filed on behalf of the applicant seeking release on bail in Case Crime No. 259 of 2023 under sections 498-A, 304-B, 323 I.P.C. and 3/4 Dowry Prohibition Act, Police Station Kotwali, District Gorakhpur.

3. FIR of the present case was lodged on 28.7.2023 against the applicant and his family members and according to the FIR, marriage of the applicant was performed with the daughter of the informant on 16.6.2023 and after marriage, applicant and his family members tortured her for an Acquaguard machine and Rs.1,00,000/- and on 16.7.2023, they committed her murder for want of dowry.

4. Learned counsel for the applicant submits, 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 submit, FIR of the present case was lodged on 28.7.2023, however, the deceased died on 17.7.2023 i.e. after 11 days and this inordinate delay in lodging the FIR itself shows that subsequently, on the basis of false allegations, applicant and his family members have made accused in the present matter.

5. He next submits, actually marriage of the applicant was performed with the deceased around a month ago and after marriage, applicant came to know that deceased was a patient of epilepsy and on the date of the incident, she received a fit of epilepsy and fell down and sustained injuries and immediately after the incident, applicant informed the informant and informant arrived at the spot and deceased was taken to the hospital but the

doctor declared her dead.

6. He further submits that on same day i.e. on 17.7.2023, an application in this regard was moved by the informant himself which has been annexed as Annexure No. 7 to the affidavit. He further submits even at the time of inquest, the applicant was present. Therefore, these facts clearly suggest that after seven days, on the basis of false allegations, applicant has been made accused in the present matter.

7. He further submits applicant is not having any previous criminal history and he is in jail since 30.7.2023.

8. *Per Contra*, learned AGA opposed the prayer for bail and submits that applicant is husband of the deceased and the deceased died due to head injury in her matrimonial home and there is also an allegation of demand of dowry. He further submits there is no evidence on record which can show that the deceased was a patient of epilepsy and although it appears that applicant informed the informant but he never informed the police and, therefore, considering the fact that applicant is husband of the deceased, he should not be released on bail.

9. I have heard both sides and perused the record.

10. However, from the record, it reflects that FIR of the present case was lodged after more than ten days and during inquest proceedings, applicant was also present and earlier an application was moved by the informant that his sister has died on 17.7.2023 but it appears from the record that at that time, informant was not aware that the deceased died due to head injury and applicant who is husband of the deceased although claims that deceased was suffering with epilepsy and due to fit of epilepsy, she fell down and sustained head injury but there is no evidence on record which can show that deceased was suffering from epilepsy.

11. Therefore, considering the facts and circumstances of the case particularly the fact that applicant is husband of deceased and his wife died with one month of marriage in her matrimonial home, in my view the applicant is not entitled to released on bail.

12. Accordingly, without expressing any opinion on the merits of the case, the instant application is **rejected**.

Order Date :- 8.11.2023
Madhurima