

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48434 of 2023

Applicant :- Rajbeer

Opposite Party :- State of U.P.

Counsel for Applicant :- Saral Singh, Satyendra Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Saral Singh, learned counsel for the applicant and Sri Kunwar Tejendra Bahadur, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 63 of 2023, under Sections 498A, 304B, 315 IPC and Section 3/4 D.P. Act, Police Station Sarsawa, District Saharanpur during pendency of the trial.

3. FIR of the present case was lodged against applicant and his elder brother and according to the FIR marriage of the applicant was performed with the daughter of the informant on 06.07.2021 and after marriage applicant and his brother tortured her and in the night of 5/6.03.2023 informant received an information that his daughter committed suicide by hanging herself. It is further mentioned in the FIR that applicant and his brother used to demand dowry.

4. Learned counsel for the applicant submitted 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 actually deceased insisted to live separately with the applicant but as elder brother of the applicant also resided with the applicant, therefore, applicant did not accept her proposal and only due to this reason in anger she committed suicide.

5. He further submits that post mortem report of the deceased also suggests that deceased died due to hanging. He further submits that in the FIR there is no specific demand of dowry was disclosed, therefore, it appears that FIR has been lodged on the basis of vague allegation of demand of dowry. He further submits that informant in his statement recorded under Section 161 Cr.P.C. also did not

disclose any specific demand of dowry but when question in this regard was asked by the Investigating Officer then he informed that deceased was tortured for motorcycle and Rs. One lakh, therefore, it appears that it was not a case of dowry death.

6. He further submits that applicant is having previous criminal history of one case relates to Section 379 IPC but it was of the year 2006 and applicant in the present matter is in jail since 07.03.2023 i.e. for more than six months.

7. Per contra, learned AGA opposed the prayer for bail and submits that applicant is husband of the deceased and his wife died within two years of her marriage under abnormal circumstances and there is allegation of demand of dowry.

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

9. However, applicant is husband of the deceased and his wife died within two years of her marriage due to hanging but from the record it reflects that no specific allegation of demand of dowry has been disclosed in the FIR and informant in his statement recorded under Section 161 Cr.P.C. also did not disclose any demand of dowry but after completion of his statement when Investigating Officer asked specific question in this regard from him then he stated that there was demand of motorcycle and Rs. One lakh. Therefore, it appears that even during investigation very casually on query informant disclosed demand of dowry, therefore, I find force in the argument advanced by learned counsel for the applicant that it does not appear to be a case of dowry death.

10. Further, from perusal of the post mortem report it appears that deceased died due to hanging, therefore, defence taken by the applicant cannot ruled out at this stage. Further, however, applicant is having previous criminal history of one case relates to Section 379 IPC but it was of the year 2006 and applicant in the present matter is in jail since 07.03.2023 i.e. for more than six months.

11. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

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

13. Let the applicant - **Rajbeer** 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.

14. 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.

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 :- 9.11.2023

AK Pandey