

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49126 of 2023

Applicant :- Ajay Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Raj Kamal Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Raj Kamal Tripathi, learned counsel for the applicant and Sri Kunwar Tejendra Bahadur, learned AGA, for the State.
2. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.327 of 2020, under Sections 498A, 304B and 316 IPC and Section 3/4 Dowry Prohibition Act, Police Station Nawabganj, District Farrukhabad during pendency of the trial.
3. FIR of the present case was lodged against the applicant and his family members and according to the FIR, marriage of the applicant was performed with the daughter of the informant about three years before and after marriage applicant and his family members tortured her for additional demand of motorcycle and jewellery and on 18.11.2022 they have committed her murder due to non-fulfillment of their demand of dowry.
4. Learned counsel for the applicant submits that applicant is the husband of the deceased and false allegation of demand of dowry and torture has been levelled against him.
5. He further submits that actually deceased, who was unfortunately also having pregnancy of eight weeks, was short tampered lady and as she used to visit her paternal home on the festival of 'Bhai Dooj' and on the date of incident she could not

come to her paternal home and her brother also could not attend the festival of 'Bhai Dooj' at her matrimonial home therefore, only due to this reason in anger she committed suicide.

6. He further submits that even post mortem report of the deceased suggests that she died due to hanging.

7. He further submits that during trial when informant of the case, i.e., father of the deceased appeared before the trial court then he however supported the version of the FIR in his examination-in-chief but in his cross-examination he did not support the prosecution case and also stated that on the date of festival of 'Bhai Dooj' the brother of the deceased could not arrive at her matrimonial home and, therefore, in emotion she committed suicide.

8. He further submits that the statement of the informant recorded by the trial court is annexed along with the instant bail application.

8. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 13.1.2021, i.e, for the last almost three years.

10. Per contra, learned AGA opposed the prayer for bail and submits that applicant is the husband of the deceased and his wife died under abnormal circumstances in her matrimonial home within seven years of her marriage and there is also allegation of demand of dowry but he could not dispute the fact that as per autopsy report, deceased died due to hanging and applicant is in jail for almost three years.

11. Learned AGA further could not dispute the fact that the father

of the deceased, i.e., informant appeared before the trial court as PW-1 and during cross-examination he did not support the prosecution case.

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

13. However, applicant is the husband of the deceased and his wife died within seven years of her marriage under abnormal circumstances in her matrimonial home and there was also allegation of demand of dowry but the informant, i.e., the father of the deceased when appeared before the trial court then during his cross-examination he did not support the prosecution case and it also reflects from his statement which has been annexed along with the instant bail application that he supported the defence taken by applicant.

14. Further, post mortem report of the deceased suggests that she died due to hanging and applicant is in jail for almost three years.

15. Therefore, considering the facts and circumstances of the case discussed above particularly the long incarceration of the applicant of almost three years, in my view, applicant is entitled to be released on bail.

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

17. Let the applicant-**Ajay Kumar** 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.

18. 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.

19. 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 :- 4.12.2023
SKM