

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49035 of 2023

Applicant :- Krishna

Opposite Party :- State of U.P.

Counsel for Applicant :- Dubey Amit Kumar Devendra
Nath, Abhishek Chauhan

Counsel for Opposite Party :- G.A., Munna Lal

Hon'ble Sameer Jain, J.

1. Shri Munna Lal, Advocate apprise the Court that today he has filed his power on behalf of the informant in the Registry of this Court and therefore, his name could not be shown in the cause list.
2. Heard Shri Abhishek Chauhan, learned counsel for the applicant, Dr. S. B. Maurya, learned A.G.A.-I for the State-respondent and Shri Munna Lal, learned counsel for the informant.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No.226 of 2023, under Sections 498-A, 323, 304-B IPC & Section 3/4 D.P. Act, Police Station Massorie, District Ghaziabad, during pendency of the trial in the court below.
4. FIR of the present case was lodged on 05.06.2023 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 25.02.2020 and after solemnization of the marriage, applicant and his family members tortured her for scorio vehicle and on 04.06.2023 applicant and his sister made assault upon the daughter of the informant and thereafter the cousin brother of the daughter of the informant dropped her on 05.06.2023 at 01:00 p.m.

in the noon in the house of the informant and at 03:00 p.m. i.e. within two hours, she committed suicide by hanging herself. It is further mentioned in the F.I.R. that daughter of the informant was having two children, one is aged about two and a half years and second is of three months and due to torture of the applicant and his family members, she committed suicide.

5. 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 admittedly deceased died in her paternal home in the absence of the applicant and when applicant came to know this fact then he also tried to lodge an F.I.R. against informant but when his F.I.R. could not be lodged then he had to file an application under Section 156(3) Cr.P.C. on 15.06.2023 i.e. within ten days and on the application under Section 156(3) Cr.P.C. of the applicant, an F.I.R. was lodged against the informant and others on 03.07.2023, under Sections 147, 148, 406, 302, 120-B I.P.C. He further submits although in the present matter after investigation, charge-sheet has been filed against the applicant but in case of the applicant, investigation is still pending.

6. He further submits that applicant is not having any previous criminal history and he is in jail in the present matter since 19.06.2023 i.e. for more than four months, therefore, he may be released on bail.

7. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submits that wife of the applicant died under abnormal circumstances within three years of her marriage and there is also allegation of demand of dowry but

both the counsel could not dispute the fact that admittedly deceased died in her paternal home and not in the house of applicant and applicant has also moved an application under Section 156(3) Cr.P.C. against informant and others with regard to the death of his wife i.e. deceased of the case.

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

9. However, applicant is husband of the deceased and his wife died within three years of her marriage due to asphyxia as a result of hanging and there was also allegation of demand of dowry but admitted case of the prosecution is that deceased committed suicide in the house of the informant in the absence of the applicant.

10. Further, it also reflects from the record that when applicant came to know about the death of his wife then he filed an application under Section 156(3) Cr.P.C. on 15.06.2023 i.e. within ten days of her death against informant and others with regard to suspicious death of his wife in the house of the informant and by the order of court concerned the F.I.R. has been lodged against the informant and others, under Sections 147, 148, 406, 302, 120-B I.P.C. and investigation of the case is still pending.

11. Further, applicant is not having any previous criminal history and he is in jail in the present matter since 19.06.2023 i.e. for more than four months.

12. Therefore, considering the facts and circumstances of the case, discussed above, in my view, applicant 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-**Krishna**, 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
Zafar