

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49111 of 2023

Applicant :- Bhuvnesh Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Shri Ajay Dubey, learned counsel for the applicant and Shri Amarnath Verma, learned Brief Holder for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.302 of 2023, under Section 306, 504 IPC, Police Station Etmadpur, District Agra, during pendency of the trial in the court below.

3. FIR of the present case was lodged against applicant and his family members on 12.09.2023, under Sections 306, 504 I.P.C. and according to the F.I.R., marriage of the applicant was performed with the sister of the informant in the year 2005 and about 12 years before, the father of the deceased purchased a plot in the name of the sister of the informant and applicant and his family members pressurized her to alienate the property in the name of the applicant but the sister of the informant was not ready and due to this reason they tortured her. It is further mentioned in the F.I.R. that due to the torture of the applicant and his family members, the sister of the informant committed suicide.

4. Learned counsel for the applicant submits that applicant is

husband of the deceased and on the basis of false allegation of torture and abetment, he has been made accused alongwith his family members in the present matter. He further submits that actually the plot in question was purchased by the applicant in the name of his wife i.e. deceased and this fact is evident from the sale-deed of the plot in question, which has been annexed alongwith the instant bail application as Annexure No.6. From perusal of the sale-deed, it appears that in the alleged sale-deed applicant and his brother was the witness and neither informant nor any family members of the deceased was the witness. He further submits that even from the statements of the independent witnesses namely; Sonveer and Tinku Kumar recorded during investigation, it reflects that applicant executed sale-deed in favour of his wife i.e. deceased with regard to the alleged plot.

5. He next submits that actually applicant used to consume liquor and due to this reason, very often dispute arose between husband and wife and the fact that applicant was a drunker is also apparent from the statements of the independent witnesses recorded during investigation and only due to the bad habit of the applicant, his wife in anger and depression committed suicide by consuming some poisonous substance.

6. He further submits that applicant is not having any previous criminal history and he is in jail in the present matter since 29.09.2023, therefore, he may be released on bail.

7. Per contra, learned AGA although opposed the prayer for bail but could not dispute the fact that from the statements of the independent witnesses it appears, the plot in question was purchased by the applicant in favour of his wife i.e. deceased.

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

9. However, as per allegation a plot was purchased by the father of the deceased i.e. wife of the applicant in her favour and applicant and his family members tortured her to alienate the property in the name of the applicant and due to their torture, she committed suicide but from the statements of the independent witnesses, it appears that the alleged plot was purchased by the applicant himself in the name of his wife i.e. deceased and thus, the defence taken by the learned counsel for the applicant finds support from the statements of the independent witnesses.

10. Further, applicant is not having any previous criminal history and he is in jail in the present matter since 29.09.2023.

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

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

13. Let the applicant-**Bhuvnesh 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.

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 :- 20.11.2023
Zafar