

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49338 of 2023

Applicant :- Vinay Shakya

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajeev Kumar Singh Parmar

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Rajeev Kumar Singh Parmar, learned counsel for the applicant and Sri Shatruhan Yadav, learned AGA for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 188 of 2020 (S.T. No. 154 of 2021), under Sections 498A, 304B IPC and Section 3/4 D.P. Act, Police Station Kotwali Kayamganj, District Farrukhabad during pendency of the trial.
3. FIR of the present case was lodged against applicant and his parents and according to the FIR marriage of the sister of the informant was performed with the applicant on 14.02.2020 and after marriage applicant and his parents tortured her for golden chain and Sofa and due to demand of dowry they have committed the murder of the sister of the informant.
4. Learned counsel for the applicant submitted that on the basis of false allegation, applicant has been made accused in the present matter only being husband of the deceased and in fact he never either demanded any dowry or tortured the deceased in any manner. He further submits that unfortunately deceased died within four months of her marriage but she committed suicide by hanging herself as she was not happy with her marriage with the applicant.
5. He further submits that informant of the case in his examination-in-chief, however, supported the version of the FIR but during his cross examination he resiled from his examination-in-chief and when subsequently other prosecution witnesses of facts appeared before the trial court then they have declared hostile. He further submits that applicant is in jail in the present matter since 14.06.2020 i.e. for more than three years.

6. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that applicant is in jail in the present matter since 14.06.2020 i.e. for more than three years and post mortem report suggests that deceased died due to hanging. He further could not dispute the fact that during trial the prosecution witnesses of facts did not support the prosecution case.

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

8. However, applicant is husband of the deceased and his wife died within four months of her marriage under abnormal circumstances in her matrimonial home and there was also allegation of demand of dowry but it appears that deceased died due to hanging and all the prosecution witnesses of facts did not support the prosecution case during trial and except informant all the prosecution witnesses of facts since beginning were declared hostile and informant of the case during cross examination did not support the prosecution case.

9. Further, applicant is in jail in the present matter since 14.06.2020 i.e. for more than three years.

10. Therefore, considering the facts and circumstances of the case particularly the fact that applicant is in jail since 14.06.2020 i.e. for more than three years, in my view, applicant, who is however husband of the deceased, is entitled to be released on bail.

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

12. Let the applicant - **Vinay Shakya** 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.

13. 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.

14. 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 :- 21.11.2023

AK Pandey