

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49373 of 2023

Applicant :- Sanjay

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Tripathi, Pankaj Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Sanjay Tripathi, 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. 66 of 2023, under Sections 498A, 304B IPC and Section 3/4 D.P. Act, Police Station Kharela, District Mahoba during pendency of the trial.

3. FIR of the present case was lodged on 19.07.2023 against applicant and his family members and according to the FIR marriage of the daughter of the informant was performed with the applicant on 22.06.2018 and after marriage applicant and his family members tortured her for dowry and applicant and his family members turned out the daughter of the informant from her matrimonial home along with her son aged about three years and on 26.06.2023 daughter of the informant committed suicide by hanging herself.

4. Learned counsel for the applicant submitted that applicant is husband of the deceased but his wife died in the house of her parents. He further submits that from perusal of the statement of the informant, it appears that for last three years deceased was living in her paternal home and in her paternal home she committed suicide by hanging herself, therefore, applicant cannot be held liable for the death of his wife i.e. deceased.

5. He further submits that actually deceased herself left her matrimonial home as in her matrimonial home she was facing some financial problem due to Covid-19 pandemic. He further submits that when deceased left her matrimonial home then applicant also filed an application under Section 9 of Hindu Marriage Act for restitution of his conjugal rights, which has been

annexed along with instant application. He further submits that totally on the basis of false allegation, applicant has been made accused in the present matter. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 20.07.2023.

6. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that deceased died due to hanging in her paternal home and for last three years she was residing in her paternal home.

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

8. However, applicant is husband of the deceased but it appears that deceased died due to hanging in her paternal home and she did not die in the house of the applicant i.e. in her matrimonial home.

9. Further, from the record, it reflects that deceased was residing in her paternal home for last three years and applicant also filed an application under Section 9 of Hindu Marriage Act for restitution of his conjugal rights.

10. Therefore, considering the facts and circumstances of the case discussed above, 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 - **Sanjay** 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