

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49449 of 2023

Applicant :- Jitendra Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Santosh Kumar Dubey, Lavkush Dixit

Counsel for Opposite Party :- G.A., Atul Kumar Yadav, Firdos Ahmad

Hon'ble Samit Gopal, J.

1. List revised.

2. Heard Sri Santosh Kumar Dubey, learned counsel for the applicant, Sri Vinod Kumar Yadav, Advocate, holding brief of Sri Atul Kumar Yadav, learned counsel for the first informant, Sri Bare Lal Bind, learned A.G.A. for the State and perused the records.

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Jitendra Kumar, seeking enlargement on bail during trial in connection with Case Crime No. 118 of 2023, under Sections 498A, 306 I.P.C. registered at P.S. Civil Lines, District Etawah.

4. The F.I.R. of the matter was lodged on 16.5.2023, under Sections 147, 302, 201 I.P.C. by Dileep Kumar against the applicant and 06 other accused persons alleging therein that his sister Smt. Sheela was married to the applicant on 17.4.2012. Since marriage she used to be troubled and tortured by the accused persons. His sister was working as 'aaya' in District Hospital. On 15.5.2023 at about 04.00 p.m. he received an information on his mobile phone that his sister is in trouble and he may come to Moti Jheel Hospital in emergency where he reached and found his sister to be dead. He found injuries at various parts of her body. The accused persons have murdered his sister and then in order to shield it, have hung her.

5. Learned counsel for the applicant argued that although the applicant is the husband of the deceased but he has been falsely implicated in the present case. It is argued that during investigation Sections 147, 302, 201 I.P.C. were deleted and Sections 498-A and 306 I.P.C. were added. It is argued that there is no evidence whatsoever to show that the applicant abetted the deceased to commit suicide. It is further argued that marriage of the applicant with the deceased was solemnized around 11 years back and the applicant has no motive to commit the aforesaid offence. It is argued that charge sheet in the matter has been submitted against the applicant and other accused persons and as such there are no chances of the applicant tampering with the evidence or not co-operating in the investigation. It is argued that co-accused Atar Singh has been granted bail by a co-ordinate Bench of this Court vide order dated 09.10.2023 passed in Criminal Misc. Bail Application No. 39383 of 2023, copy of the said bail order is annexure no. 12 to the affidavit. It is argued that cause of death of the deceased as opined by the doctor conducting post mortem is asphyxia due to hanging which is also suggestive of fact that the deceased committed suicide. The applicant is having no criminal history as

stated in para-27 and is in jail since 17.5.2023.

6. Per contra, learned AGA and learned counsel for the first informant opposed the prayer for bail vehemently and argued that the applicant is husband of the deceased. The deceased was found to have received 06 other injuries being 05 contusions and one blackening over the left eye apart from ligature mark on the body of the deceased. While placing post mortem report it is argued that even the doctor conducting post mortem found internal injuries on vulva and vagina and there was hematoma present. It is argued that the same would go to show that there has been assault upon the deceased before death. It is argued that the prayer for bail be rejected.

7. After having heard learned counsels for the parties and perusing the records, it is evident that the applicant is husband of the deceased. The F.I.R. was initially lodged under Sections 147, 302, 201 I.P.C. which was later on converted under Sections 498A, 306 I.P.C. Post mortem report shows 05 contusion at various parts of the body and one blackening on the left eye. There appears injuries on vulva and vagina and there was hematoma present.

8. Looking into the facts and circumstances of the case as well as nature and gravity of the offence, no case for bail is made out in favour of the applicant.

9. The bail application is, accordingly, rejected.

(Samit Gopal,J.)

Order Date :- 8.12.2023

Naresh