

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49501 of 2023

Applicant :- Pappu

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Ashish Srivastava, Shashi

Counsel for Opposite Party :- G.A., Yogendra Pati Tripathi

Hon'ble Sameer Jain, J.

1. Heard Ms. Shashi, learned counsel for the applicant, Sri Yogendra Pati Tripathi, learned counsel for the informant and Sri Manoj Kumar Singh, 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. 223 of 2023, under Sections 498-A, 304-B, 201 IPC & 3/4 D.P. Act, Police Station- Cholaapur, District- Varanasi, during pendency of the trial in the court below.
3. FIR of the present case was lodged against applicant, his son and village pradhan and according to the FIR, marriage of the son of the applicant was performed with the daughter of the informant about four years before and after marriage, applicant and his son tortured her for dowry and on 17.05.2023, son of the applicant informed the informant that his daughter has died.
4. It is further mentioned in the FIR that at the time of information, informant was in Gorakhpur and he informed the son of the applicant that he alongwith his family members is coming but in spite of that without waiting the informant and his family members, applicant and his son with the help of gram pradhan did the cremation.
5. Learned counsel for the applicant submitted that applicant is the father-in-law of the deceased and on the basis of false allegation, he has been made accused in the present matter and actually, deceased i.e. daughter-in-law of the applicant died natural death. She further submitted that after her death, son of the applicant informed the informant about the incident and applicant and his son alongwith villagers waited them for more than six hours but when they did not arrive then ultimately they had to cremate the body. She further submitted that from the statement of the villagers

also, it reflects that applicant, his son and villagers waited the informant for 5-6 hours and their statements have been appended alongwith the instant bail application.

6. She further submitted that applicant is not having any criminal history and he is in jail since 18.05.2023.

7. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that applicant is the father-in-law of the deceased and he is head of the family and there is specific allegation that he alongwith husband of the deceased tortured her for demand of dowry and as daughter-in-law of the applicant died within four years of her marriage under abnormal circumstances and he disposed of the body alongwith his son, therefore, applicant should not be released on bail.

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

9. Applicant is the father-in-law of the deceased and it appears that his daughter-in-law died within four years of her marriage and there is also allegation of demand of dowry and from the record, it reflects that dead body of the deceased has been disposed of and, therefore, post-mortem of the deceased could not be conducted but it appears from the FIR that no specific allegation of demand of dowry has been disclosed and on the basis of general allegation, applicant, who is father-in-law of the deceased, was made accused alongwith husband of the deceased.

10. Further, from the statements of the villagers, it also reflects that applicant and villagers waited the informant for about six hours but when they did not arrive then they did the cremation.

11. Therefore, considering the facts and circumstances of the case discussed above, particularly the fact that, applicant is father-in-law of the deceased, in my view applicant is entitled to be released on bail.

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

Let the applicant- **Pappu** 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 :- 22.11.2023

KK Patel