

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49580 of 2023

Applicant :- Riyasat Ali

Opposite Party :- State of U.P.

Counsel for Applicant :- Pankaj Bharti

Counsel for Opposite Party :- G.A.,Amit Daga

Hon'ble Samit Gopal,J.

1. List revised.
2. Sri Amit Daga, Advocate states that he has filed his vakalatnama in the office behalf of the first informant but the same is not on record.
3. Office is directed to trace out the same and place it on record by the next date and make a note in the order sheet regarding the same.
4. Heard Sri Pankaj Bharti, learned counsel for the applicant, Sri Amit Daga, learned counsel for the first informant, Sri Birendra Pratap Singh, learned counsel for the State and perused the material on record.
5. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant-Riyasat Ali, seeking enlargement on bail during trial in connection with Case Crime No.56 of 2023, under Sections 498-A, 304-B I.P.C. and 3/4 Dowry Prohibition Act, registered at Police Station Kakroli (Kakrauli), District Muzaffar Nagar.
6. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the applicant is the father-in-law of the deceased. The marriage of the deceased Shaeen with Taj Mohammad, the son of the applicant was solemnized on 7.11.2021. It is argued that although the allegation in the FIR is that the deceased was in her maternal house where the applicant and Taj Mohammad, the husband of the deceased came and took her on the pretext of getting some medicines after which she was dropped and she became ill thereafter she was taken to the hospital where she was declared dead. It is argued that the deceased was not found to have received any bodily injury. As per postmortem report, the cause of death was not known and viscera was preserved after which Aluminum Phosphide was found in the viscera report. Taj Mohammad, the husband of the deceased is in jail. Co-accused Shahjahan, the

mother-in-law of the deceased has been granted bail by coordinate Bench of this Court vide order dated 6.11.2023 passed in Criminal Misc. Bail Application No.45646 of 2023, copy of the same has been produced by learned counsel for the applicant which is taken on record. It is argued that charge sheet has been submitted in the matter. It is also pointed out that the applicant has no criminal history as stated in para 21 of the affidavit and is in jail since 17.8.2023.

7. Per contra learned counsel for the first informant as well as learned counsel for the State vehemently opposed the prayer for bail and argued that the applicant is named in the FIR. The deceased died in her matrimonial house after six months of marriage only. Since the applicant is the father-in-law of the deceased, he was the head of the family and was responsible for setting things right, as such prayer for bail be rejected.

8. After hearing the counsel for the parties and perusing the record, it is apparent that the applicant is the father-in-law of the deceased. The husband of the deceased is in jail. The mother-in-law has been granted bail. The deceased died in her maternal house. The deceased was not found to have received any bodily injury and viscera was preserved in which Aluminum Phosphide was found.

9. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

10. Let the applicant-**Riyasat Ali**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant will not misuse the liberty of bail in any manner

whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

11. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

12. The bail application is **allowed**.

(Samit Gopal, J.)

Order Date :- 22.11.2023
Gaurav Kuls