

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49969 of 2023

Applicant :- Sudheer Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Anurag Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Dr. Gautam Chowdhary,J.

1. Heard learned counsel for the applicant, learned A.G.A for the State and perused the record.

2. Learned counsel for the applicant submits that applicant is husband of the deceased, he is innocent and has been falsely implicated in the present case. Learned counsel further submits that F.I.R. was lodged by the complainant against the applicant and his entire family members with the allegation that he had solemnized marriage of his sister with the applicant and at the time of marriage sufficient dowry was given, but soon after marriage the accused persons used to make demand of a motorcycle and on account of non fulfillment thereof his sister was subjected to cruelty and harassment and the accused persons also used to threaten her for killing her and ultimately the accused persons killed his sister by hanging. Learned counsel for the applicant further submits after inquest proceedings, postmortem of the deceased was conducted, wherein except one ligature mark all around the neck no other injury was found on the person of the deceased and cause of death was found to be asphyxia as a result of ante mortem hanging. Learned counsel for the applicant further submits that though initially prosecution witnesses in their statements recorded before the police supported the prosecution case and general allegations were made by them against the applicant and his entire family members, but in the trial court prosecution witnesses, P.W.1-Anil Kumar, who is complainant and P.W.2-Sudhir Kumar, have not supported the prosecution case and denied that deceased neither made any complaint regarding demand of additional dowry nor made any allegation of her harassment or cruelty on account of non fulfillment of demand of dowry by her in-laws including her husband, the deceased lived happily in her matrimonial house and the deceased a short tempered lady and was living under mental stress on account of

which she hanged herself. It has further been argued by the learned counsel for the applicant that, thus, there is bleak chance that prosecution may prove its case beyond reasonable doubt and the applicant could be convicted. Learned counsel for the applicant further submits that other co-accused, who are father and mother of the applicant, have also been granted bail by this Court. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. He next submits that applicant is languishing in jail since 07.08.2022, having no criminal history.

3. Per contra, learned A.G.A. has opposed the prayer for bail of the applicant by contending that the deceased died within four years of marriage in unnatural circumstance at her matrimonial house and the applicant is the husband of the deceased, therefore, he does not deserve any indulgence, but he has not disputed that prosecution witnesses, P.W.1 and P.W.2 in their statements recorded before the court below have not supported the prosecution case.

4. After perusing the record in the light of the submissions made at the bar and after taking an overall view of all 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, without expressing any opinion on merits of the case, this Court is of the view, that the applicant may be enlarged on bail.

5. Let applicant-**Sudheer Kumar**, involved in Session Trial No. 569 of 2022, arising out of Case Crime No. 290 of 2022, under Sections 498-A, 304-B I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station Kuravali, District Mainpuri, be enlarged on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

(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.

6. 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 in accordance with law.

7. The bail application is **allowed**.

Order Date :- 22.11.2023

Mustaqeem.