

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50677 of 2023

Applicant :- Sonu

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajkumar Verma

Counsel for Opposite Party :- G.A.,Om Prakash Mishra

Hon'ble Sameer Jain,J.

1. Heard Shri Rajkumar Verma, learned counsel for the applicant, Shri Ravi Kant Kushwaha, learned A.G.A. for the State-respondent and Om Prakash Mishra, learned counsel for the informant.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.221 of 2023, under Sections 498-A, 304-B IPC & Section 3/4 D.P. Act, Police Station Ghazipur, District Fatehpur, during pendency of the trial in the court below.

3. FIR of the present case was lodged on 06.09.2022 against applicant and his family members and according to the F.I.R., marriage of the applicant was performed with the daughter of the informant on 02.05.2023 and after solemnization of the marriage, applicant and his family members started torturing her for Rs.2,00,000/- and on 10.07.2023, applicant has taken the *Vidaai* of the daughter of the informant and before *Vidaai* daughter of the informant informed her family members that applicant and his family members are torturing her for additional demand of dowry. It is further mentioned in the

FIR that on 15.07.2023, applicant informed the informant that his daughter has consumed some substance and after five minutes, he again informed that she died. It is further mentioned in the FIR that after receiving information, informant departed from state of Maharashtra, where he resided and on 16.07.2023, the cremation of the body of his daughter was done. It is further mentioned in the FIR that his daughter was murdered by applicant and his family members for want of dowry.

4. Learned counsel for the applicant submits that applicant is husband of the deceased and on the basis of false allegation of demand of dowry and torture, he has been made accused in the present matter alongwith his other family members.

5. He further submits that marriage of the applicant was performed with the deceased on 02.05.2023 and she died on 15.07.2023 i.e. within two and a half months of her marriage and this fact clearly suggests that after her death, applicant and his other family members have been falsely implicated in the present matter as it is hard to believe that within short span of time of her marriage deceased was being tortured by her applicant i.e. husband.

6. He further submits that actually deceased was not happy with her marriage with the applicant and this fact is evident from her Whatsapp messages, which was procured by the applicant from her mobile phone and same has been annexed as Annexure No.5 to the affidavit.

7. He next submits that applicant immediately informed the

informant after the incident and even he was also one of the inquest witness during inquest of the dead-body of the deceased and all these facts shows the bona-fide of the applicant.

8. He further submits that applicant is not having any previous criminal history and he is in jail in the present matter since 21.07.2023.

9. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submit that applicant is husband of the deceased and his wife died within two and a half months of her marriage in her matrimonial home under abnormal circumstances and there is also allegation of demand of dowry and therefore, considering the provisions of Section 304-B I.P.C. and Section 113- B of the Indian Evidence Act, applicant should not be released on bail.

10. Learned counsel for the informant further submits that Annexure No.5 to the affidavit i.e. Whatsapp message of the deceased is not part of the case diary, therefore, no reliance can be placed on such messages at this stage and therefore, applicant, who is husband of the deceased, is not liable to be released on bail.

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

12. From the record, it reflects that applicant is husband of the deceased and his wife died within two and a half months of her marriage in her matrimonial home under abnormal circumstances and there is also allegation of demand of

dowry but from Annexure No.5 to the affidavit, it reflects that applicant i.e. husband of the deceased after her death procured some Whatsapp messages from her mobile phone, which can show that she was not happy with her marriage with the applicant and an averment in this regard has also been made in para 11 to the affidavit and on query, learned A.G.A. could not controvert the genuineness of the Annexure No.5, which has been annexed alongwith the instant bail application.

13. Further, from the inquest report of the body of the deceased, which has been annexed as Annexure No.2 to the affidavit, it reflects that applicant is also one of the panch witness and admittedly he is the person, who informed the informant immediately after the incident.

14. 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 enlarged on bail.

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

16. Let the applicant- **Sonu**, 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.

17. 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.

18. 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 :- 28.11.2023
Zafar