

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50947 of 2023

Applicant :- Shani

Opposite Party :- State of U.P.

Counsel for Applicant :- Gyan Prakash Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Gyan Prakash Mishra, learned counsel for the applicant and Sri Rajeev Dhar Dwivedi, learned AGA for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 842 of 2023, under Sections 498A, 306 IPC and Section 3/4 D.P. Act, Police Station Khurja Nagar, District Bulandshahr during pendency of the trial.
3. FIR of the present case was lodged on 28.09.2023 against applicant and his family members under Sections 498A, 306 IPC and Section 3/4 D.P. Act and according to the FIR marriage of the applicant was performed with the sister of the informant on 14.07.2016 and after marriage applicant and his family members tortured her for four wheeler and on 17.09.2023 due to torture of applicant and his family members sister of the informant committed suicide by hanging herself.
4. Learned counsel for the applicant submitted 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 case. He further submits that applicant is a poor labour and there was no occasion for him to make demand of a car. He further submits that it is hard to believe that after seven years of marriage applicant would make a demand of dowry and would torture his wife.
5. He further submits that actually deceased i.e. wife of the applicant always insisted to live nearby her paternal home and when applicant did not agree then in anger she hanged herself. He further submits that even post mortem report of the deceased suggests that she died due to hanging.

6. He next submits that FIR of the present case was lodged after 11 days and this fact further suggests that after 11 days informant cooked up a false story and implicated the applicant and his family members.

7. Per contra, learned AGA opposed the prayer for bail and submits that applicant is husband of the deceased and due to abatement and torture with regard to demand of a car deceased committed suicide, 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. However, applicant is husband of the deceased and his wife died under abnormal circumstances in her matrimonial home and there is also allegation of demand of dowry but even as per prosecution marriage of the applicant was performed with the deceased more than seven years before and from the record it further reflects that FIR of the present case was lodged after 11 days.

10. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

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

12. Let the applicant - **Shani** 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 :- 29.11.2023

AK Pandey