

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50844 of 2023

Applicant :- Durgawati Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Shri Niwash Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Shri Niwash Yadav, learned counsel for the applicant and Sri Santosh Nigam, learned AGA for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 103 of 2023, under Sections 498-A, 304-B IPC and Section 3/4 Dowry Prohibition Act, Police Station Bheempura, District Ballia during pendency of the trial.
3. FIR of the present case was lodged against applicant and her family members and according to the FIR marriage of the son of the applicant was performed with the daughter of the informant about 5 years before and after marriage applicant and her family members tortured her for dowry. It is further mentioned in the FIR that son-in-law of the informant resided in Ahmedabad and from Ahmedabad he used to torture his daughter and on 19.6.2023 informant received information that his daughter has been murdered by the applicant and her family members.
4. Learned counsel for the applicant submits applicant is mother-in-law of the deceased and entire allegation of torture and demand of dowry made against her is totally false.
5. He further submits actually son of the applicant i.e. husband of the deceased resided in Ahmedabad and deceased always pressurizes him to take her to Ahmedabad but due to paucity of

fund the son of the applicant could not fulfill her desire and only due to this reason she committed suicide by hanging herself.

6. He further submits that post-mortem report of the deceased also suggests that she died due to hanging.

7. He further submits that applicant is a lady and is not having any previous criminal history and she is in jail since 22.6.2023.

8. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that applicant is mother-in-law of the deceased and there is no specific allegation against the applicant.

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

10. From the record, it reflects that applicant is mother-in-law of the deceased and her daughter-in-law died within five years of her marriage under abnormal circumstance in her matrimonial home but there is no specific allegation against the applicant and post-mortem report suggests that deceased died due to hanging. Therefore, defence taken by the applicant in paragraph no. 16 of the affidavit cannot be ruled out at this stage.

11. Further applicant is a lady and is she is in jail in the present matter since 22.6.2023.

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

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

14. Let the applicant- Durgawati Devi 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.

15. 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.

16. 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

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