

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51008 of 2023

Applicant :- Tauseem

Opposite Party :- State of U.P.

Counsel for Applicant :- Rizwan Ahmad(Qureshi),Hina Shafiq

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Rizwan Ahmad Qureshi, learned counsel for the applicant and Sri Shatruhan Yadav, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 252 of 2020, under Sections 498A, 304B IPC and Section 3/4 D.P. Act, Police Station Ganj, District Rampur during pendency of the trial.

3. FIR of the present case was lodged against applicant and his family members and according to the FIR marriage of the applicant was performed with the sister of the informant about six years before and after marriage applicant and his family members tortured her for demand of dowry and on 29.07.2020 elder brother of the applicant informed the informant that his sister has died. It is further mentioned in the FIR that applicant and his family members committed the murder of the sister of the informant for want of dowry.

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, he has been made accused in the present matter. He further submits that even if the prosecution case is accepted that deceased died due to consumption of the poison then also it cannot be said that applicant with the help of family members administered poison to her and it appears be a case of suicide by consuming poison.

5. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 31.07.2020 i.e. for almost three and half years and till date not even a single prosecution witness could be examined and this fact is evident from the order-sheet, which has been annexed as Annexure-10 to

the affidavit.

6. He further submits that minimum punishment provided under Section 304B IPC is seven years and applicant has almost served about 50% of the same, therefore, on the ground of long incarceration of about three and half years and considering the slow speed of the trial, applicant, who is however husband of the deceased, may be released on bail.

7. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is husband of the deceased and his wife died within six years of her marriage in her matrimonial home under abnormal circumstances and there is also allegation of demand of dowry but could not dispute the fact that applicant in the present matter is in jail since 31.07.2020 i.e. for almost three and half years and till date not even a single prosecution witness could be examined.

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 within six years of her marriage under abnormal circumstances but as per allegation by consuming poison deceased died, therefore, at this stage, possibility cannot be ruled out that deceased might have committed suicide.

10. Further, applicant is in jail for almost three and half years, therefore, I find force in the argument advanced by learned counsel for the applicant that applicant has almost served 50% of the minimum sentence of seven years provided under Section 304B IPC.

11. Further, from the order-sheet, it appears that till date not even a single prosecution witness could be examined, therefore, it appears that trial of the case is moving with languid pace. Further, from the FIR it reflects that on the basis of vague allegation, FIR of the present case was lodged and no specific demand of dowry could be disclosed.

12. Therefore, considering the facts and circumstances of the case, particularly the fact that applicant is in jail since 31.07.2020 i.e. for almost three and half years, 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 - **Tauseem** 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 :- 29.11.2023

AK Pandey