

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53450 of 2023

Applicant :- Chamaku @ Chamak Prasad

Opposite Party :- State of U.P.

Counsel for Applicant :- Manoj Kumar Mishra, Prabhu Narain Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal, J.

1. List revised.

2. Heard Sri Manoj Kumar Mishra, learned counsel for the applicant, Sri Virendra Pratap Singh, learned counsel for the State and perused the material on record.

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant **Chamaku @ Chamak Prasad**, seeking enlargement on bail during trial in connection with Case Crime No. 47 of 2022, under Sections 498-A, 304-B I.P.C. and 3/4 D.P. Act, registered at Police Station Jamalpur, District Mirzapur.

4. The FIR of the matter was lodged on 31.05.2022 by Babloo against the applicant and two other persons alleging therein that his niece Riya was married to the applicant around three years back. The accused persons raised a demand of a motorcycle and money as dowry and used to assault her and torture her. On 30.05.2022 at about 10:00 pm he received an information that his niece has been forcibly given something to eat and drink and murdered after which he reached the place and found his niece to be dead.

5. Learned counsel for the applicant argued that although the applicant is the husband of the deceased but he has been falsely implicated in the present case. It is argued that the deceased committed suicide and died. It is further argued that the marriage of the applicant with the deceased was a love marriage and one child was born from wedlock. Para 7 of the affidavit has been placed before the Court. It is argued that there is no complaint earlier by the deceased or by her family members regarding any torture or demand by the applicant and other accused persons for any dowry. It is argued while placing para 11 of the affidavit that the deceased committed suicide by consuming poison due to misunderstanding that the applicant was having some relationship with another lady whereas there was no such other lady in the life

of the applicant. It is argued that in the postmortem examination report the doctor did not find any bodily injury and the cause of death could not be ascertained as such viscera was preserved which was examined and chemical examiner found aluminum phosphide poison in it. It is argued that co-accused Mahendra the father-in-law and Smt. Krishnawati Devi the mother-in-law of the deceased Riya have been granted bail by different Benches of this Court vide orders dated 14.02.2023 and 11.08.2023 passed in Crl. Misc. Bail Application Nos. 3945 of 2023 (Mahendra Vs. State of U.P.) and 52627 of 2022 (Smt. Krishnawati Devi Vs. State of U.P.), copy of the orders are annexed as annexure 6 to the affidavit. It is further argued that the trial in the present case has started in which the first informant Babloo has been examined as PW-1 who did not support the prosecution case. He further argued that the applicant has no criminal history as stated in para 5 of the affidavit and is in jail since 16.08.2022.

6. Per contra, learned counsel for the State opposed the prayer for bail and argued that the applicant is the husband of the deceased and he is named in the FIR and there are allegations against him. The deceased died an unnatural death in her matrimonial house within seven years of marriage. The trial in the present matter has started in which the first informant/Babloo has been examined as PW-1 in which he supported the prosecution case. It is argued that as such the prayer for bail of the applicant be rejected.

7. After having heard learned counsels for the parties and perusing the records, It is evident that the applicant is the husband of the deceased. The deceased died in her matrimonial house within seven years of marriage which is unnatural. Aluminum phosphide poison was found in the viscera. The trial in the matter has started in which one witness being Babloo/first informant as PW-1 has been examined who supports the prosecution version. I do not find it a fit case for bail.

8. Considering the totality of the case in particular, nature of evidence available on record, I am not inclined to release the applicant on bail.

9. The bail application is, accordingly, **rejected**.

Order Date :- 13.12.2023

M. ARIF

(Samit Gopal, J.)