

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53507 of 2023

Applicant :- Brijesh Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Kamalesh Kumar Nishad, Ram Awadh Maurya

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. From the record, it reflects that in the instant bail application certified copy of the FIR has not been annexed and in this regard, an exemption application has been filed.
2. Learned counsel for the applicant submitted that actually he received one certified copy of the FIR of the present case and due to mistake, separate bail application of applicant who is father in law and mother in law of the deceased were filed and in the bail of mother in law certified copy of the FIR had been annexed and therefore, alongwith the instant bail application certified copy of the FIR could not be annexed and in the exemption application it has been narrated that due to non availability of certified copy of the FIR it could not be annexed alongwith the instant bail application.
3. In view of the above, the instant Exemption Application stands allowed.
4. Heard Sri Kamalesh Kumar Nishad, learned counsel for the applicant and Sri Kunwar Tejendra Bahadur, learned Brief Holder for the State-respondent.
5. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 269 of 2023, under Sections 498A, 304B IPC & Section 3/4 D.P. Act, Police Station Karvi Kotwali Nagar, District Chitrakoot, during pendency of the trial in the court below.
6. FIR of the present case was lodged against the applicant and his family members and according to the FIR, marriage of the son of the applicant was performed with the sister of the informant on 5.5.2019 and after marriage applicant and his family members tortured her and on 24.4.2023 due to torture of applicant and his family members for demand of dowry, she consumed poison and during treatment she died.
7. Learned counsel for the applicant submitted that applicant is

father in law of the deceased and on the basis of general and false allegation of torture and dowry he has been made accused in the present matter.

8. He further submitted that neither in the FIR nor in the statement of the informant recorded during investigation any specific demand of dowry was disclosed and therefore, it appears that some dispute arose between husband and wife and thereafter wife consumed poison.

9. He further submitted that viscera report of the deceased suggests that due to the consumption of insecticide deceased died.

10. He further submitted that mother in law has already been released on bail and case of applicant on merit is at par with her.

11. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 29.9.2023.

12. Per contra, learned AGA opposed the prayer for bail but could not dispute the arguments on facts advanced by learned counsel for the applicant.

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

14. Considering the fact that applicant is the father in law of the deceased and there is no specific allegation has been made against him and neither in the FIR nor in the statement of the informant any specific demand of dowry was disclosed and bail application of mother in law has been allowed, in my view, applicant is entitled to be released on bail.

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

16. Let the applicant-**Brijesh Kumar**, 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 :- 13.12.2023

Ankita