

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51891 of 2023

Applicant :- Rahul Kumar @ Rohit

Opposite Party :- State of U.P.

Counsel for Applicant :- Chandra Nath Bhatt

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Upendra Kumar Singh, Advocate, holding brief of Sri Chandra Nath Bhatt, learned counsel for the applicant and Sri Rajeev Dhar Dwivedi, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 229 of 2023, under Sections 498-A, 306 IPC, Police Station- Kanth, District- Moradabad, during pendency of the trial in the court below.
3. FIR of the present case was lodged on 15.06.2023 against applicant and his family members and according to the FIR, marriage of the applicant was performed with the sister of the informant about nine years before and after marriage, applicant and his family members tortured her for dowry and on 14.06.2023, informant received an information that applicant and his family members committed the murder of his sister.
4. Learned counsel for the applicant submitted that initially FIR of the present case was lodged under Sections 498-A, 304-B IPC and 3/4 D.P. Act but subsequently when it was revealed that marriage of the deceased was performed with the applicant more than seven years before then case was converted under Section 306 IPC. He further submitted that on the basis of false allegation, applicant has been made accused in the present matter and there is no evidence, which can show that due to abatement of the applicant, his wife i.e. deceased committed suicide.
5. He further submitted that unfortunately some matrimonial dispute was going on between husband and wife and on 10.06.2023 i.e. about four days before from the alleged incident, applicant consumed some poisonous substance when dispute arose between husband and wife and he was admitted to the hospital and

was discharged on 13.06.2023 and this fact is evident from the medical report of the applicant, which has been annexed as Annexure No. 9 to the affidavit. He further submitted that the fact that there was some matrimonial dispute between husband and wife, is also evident from the statement of Jaipal, one villager, and son of the applicant aged about 8 years and statement of both the witnesses have been annexed alongwith the instant bail application.

6. He further submitted that post-mortem report of the deceased suggests that she committed suicide as according to the doctor, she died due to hanging.

7. He further submitted that applicant is not having any criminal history and he is in jail since 24.06.2023.

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

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

10. However, applicant is the husband of the deceased and his wife died due to ante-mortem hanging but from the perusal of Annexure No. 9 and statements of the villager Jaipal and son of the applicant it appears that some matrimonial dispute arose between husband and his wife i.e. deceased and four days before from the alleged incident, applicant due to matrimonial dispute, consumed some poisonous substance and he was admitted in the hospital and was discharged on 13.06.2023 and after his discharge, within two days, deceased committed suicide., therefore, defence taken by the applicant that there is no evidence of abatement against the applicant cannot be completely ruled out at this stage.

11. Further, applicant is not having any criminal history and he is in jail since 24.06.2023.

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- **Rahul Kumar @ Rohit** 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 :- 4.12.2023

KK Patel