

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53086 of 2023

Applicant :- Rakesh Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Kumar Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.

2. Heard Sri Raju Kannaujiya, Advocate holding brief of Sri Sanjay Kumar Dwivedi, learned counsel for the applicant and Sri Imran Khan, learned AGA for the State.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 03 of 2023, under Sections 498A, 304B, 328 IPC and Section 3/4 D.P. Act, Police Station Diyoriya Kalan, District Pilibhit during pendency of the trial.

4. 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 daughter of the informant about four years before and after marriage applicant and his family members tortured his daughter for motorcycle, Television, Freeze and Rs. 50,000/- and on 04.01.2023 informant received an information that applicant and his family members administered poison to his daughter and she died.

5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and actually marriage of the deceased with the applicant was her second marriage and she performed marriage with the applicant against the wishes of her parents, therefore, relationship of the deceased with his parents was not cordial one and informant in the FIR itself admitted this fact that he was not used to visit the matrimonial home of his daughter.

6. He further submits that in the year 2017 deceased herself filed a

criminal complaint against her father and brothers, which has been annexed along with supplementary affidavit and in the complaint she made allegation that due to her marriage with the applicant her father and brothers were not happy and on 20.09.2017 they after entering in the matrimonial home made assault upon her and applicant.

7. He further submits that parents of the deceased are also the resident of the same village and due to the bad behavior and their torture, she committed suicide by consuming insecticide and subsequently on the basis of false allegation of demand of dowry, applicant and his family members have been made accused in the present matter.

8. He further submits that during post mortem cause of death could not be ascertained and viscera was preserved but now viscera report is on record and viscera report of the deceased shows that she died due to consumption of insecticide.

9. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 08.06.2023 i.e. for last more than six months.

10. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is husband of the deceased and his wife died within four years of her marriage under abnormal circumstances in her matrimonial home and there is also allegation of demand of dowry but could not dispute the fact that deceased herself lodged complaint against informant and her two brothers in the year 2017 and in the complaint she made specific allegation against them that they were not happy with her marriage with the applicant and they also made assault upon her and applicant.

11. He further could not dispute the fact that as per viscera report deceased died due to consumption of insecticide. Learned AGA further could not dispute the fact that informant and applicant both were resident of the same village.

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

13. However, applicant is husband of the deceased and his wife died within four years of her marriage under abnormal circumstances in her matrimonial home and there is also allegation of demand of dowry but from the record it reflects that this marriage was her second marriage with the applicant and it also

reflects that against the wishes of her parents she performed second marriage with the applicant and her family members were not happy and deceased in the year 2017 filed a criminal complaint against them, which has been annexed along with supplementary affidavit, in which, she stated all these facts and from the record it also reflects that applicant and informant both are resident of same village, therefore, argument advanced by learned counsel for the applicant that due to the torture of the informant side deceased committed suicide by consuming insecticide cannot be completely brushed aside at this stage.

14. Further, viscera report of the deceased also suggests that she died due to consumption of insecticide. Further, applicant is not having any criminal history and in the present matter he is in jail since 08.06.2023 i.e. for last more than six months.

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

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

17. Let the applicant - **Rakesh 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.

18. 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.

19. 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 :- 12.12.2023

AK Pandey