

**Court No. - 70**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 52851 of 2023

**Applicant :-** Vimlesh Kumar

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Sanjeev Kumar Singh

**Counsel for Opposite Party :-** G.A.

**Hon'ble Sameer Jain,J.**

1. Heard Sri Sanjeev Kumar Singh, learned counsel for the applicant and Sri R.N. Srivastava, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 441 of 2023, under Sections 498-A, 323, 306 IPC, Police Station- Pipiganj, District-Gorakhpur, during pendency of the trial in the court below.
3. FIR of the present case was lodged on 10.09.2023 against applicant and his parents and according to the FIR, marriage of the applicant was performed with the sister of the informant about 13 years before and after marriage, applicant and his family members tortured her continuously and due to torture and abatement of the applicant and his parents, sister of the informant committed suicide.
4. Learned counsel for the applicant submitted that applicant is the husband of the deceased and on the basis of false allegation, applicant has been made accused in the present matter. He further submitted that admittedly marriage of the applicant was performed with the deceased about 13 years before. He further submitted that however no reason of harassment was disclosed in the FIR by the informant but when the statement of the informant was recorded under Section 161 Cr.P.C. then he stated that as applicant developed illicit relationship with some other lady, therefore, dispute arose between husband and wife and thereafter deceased committed suicide by hanging herself. He further submitted that allegation made against the applicant is although, false and baseless but even if it is accepted then also it cannot be said that due to abatement of the applicant, deceased committed suicide.

5. He further submitted that applicant is not having any criminal history and he is in jail since 22.09.2023.

6. Per contra, learned AGA however, opposed the prayer for bail but could not dispute the fact that no reason of harassment has been disclosed by the informant in the FIR and for the first time in his statement recorded under Section 161 Cr.P.C. he stated that due to bad character of the applicant, dispute arose between husband and wife and thereafter deceased committed suicide by hanging herself.

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

8. However, applicant is the husband of the deceased and his wife died due to hanging but applicant has taken a specific plea in paragraph no. 17 of the affidavit that as for clearance of physical test examination of the Sub Inspector, he paid handsome amount of money to the informant and when he was not selected in the examination then he demanded back his money but informant was not returning his money and therefore, applicant started pressurizing him and sometimes some dispute arose between husband and wife in this regard and only due to conduct of her father, deceased committed suicide. The defence taken by the applicant cannot be completely ruled out at this stage.

9. Further, only general and vague allegation of torture has been made by the informant in the FIR of the present case, however, he disclosed the reason of torture in his statement recorded under Section 161 Cr.P.C. and stated that as applicant developed illicit relationship with some other lady, therefore, deceased committed suicide. I find force in the argument advanced by learned counsel for the applicant that merely on the basis of the statement of informant, at this stage, it cannot be said that due to abatement of the applicant, deceased committed suicide.

10. Further, applicant is not having any criminal history and he is in jail since 22.09.2023.

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

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

13. Let the applicant- **Vimlesh 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.

14. 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.

15. 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 :- 8.12.2023**

KK Patel