

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53853 of 2023

Applicant :- Alauddin

Opposite Party :- State of U.P.

Counsel for Applicant :- Punita Pandey, Shweta Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Ms. Shweta Pandey, learned counsel for the applicant and Sri Imran Khan, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 246 of 2023, under Sections 498A, 304B, 328 IPC and 3/4 D.P. Act, Police Station Mandi Dhanaura, District Amroha, during pendency of the trial in the court below.

3. FIR of the present case was lodged against the applicant and his family members and according to the FIR marriage of the applicant was performed with the daughter of the informant on 25.11.2021 and after marriage applicant and his family members tortured her for dowry and on 7.5.2023 applicant and his family members administered some poisonous substance to her due to which she died.

4. Learned counsel for the applicant submitted that applicant is the husband of the deceased and on the basis of false allegation of demand of dowry and torture he has been made accused in the present matter.

5. She further submitted that in the FIR no specific demand of dowry was disclosed however when the statement of the informant was recorded during investigation then he stated that there was demand of Rs. Two lacs and this fact clearly suggests that on the basis of vague allegation of demand of dowry, FIR of the present case was lodged and in fact there was no demand of dowry.

6. She further submitted that actually it was the third marriage of the deceased with the applicant and earlier her two marriages had been performed with another persons but due to her rude nature her earlier two marriages could not be survived and earlier two

husbands divorced her. She further submits, however, applicant according to her own wish performed marriage with the deceased but after marriage deceased started torturing him to live separately after leaving her old and infirm mother but on refusal of the applicant she became highly annoyed and in rash she committed suicide by consuming some poisonous substance.

7. She further submitted that as per post mortem report, cause of death of the deceased could not be ascertained and her viscera was preserved but now viscera is on record and according to it deceased died due to consumption of insecticide.

8. She further submitted that applicant is having no criminal history and he is in jail in the present matter since 30.5.2023 i.e. for last more than six months.

9. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is husband of the deceased and his wife died under abnormal circumstances in her matrimonial home within two years of her marriage and there is also allegation of demand of dowry but could not dispute the fact that in the FIR no specific demand of dowry was disclosed and earlier also deceased twice performed marriage.

10. He further could not dispute the fact that as per viscera report deceased died due to consumption of insecticide.

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

12. However, applicant is husband of the deceased and his wife died under abnormal circumstances due to consumption of insecticide in her matrimonial home within two years of her marriage and there is also allegation of demand of dowry but from the perusal of the FIR, it appears that there is no specific demand of dowry and on the basis of vague allegation of demand of dowry, it was lodged.

13. From the record it also reflects that it was the third marriage of the deceased with the applicant and her earlier two marriages also could not be survived. Further, even post mortem of the deceased suggests that she did not sustain any injury and during autopsy her cause of death could not be ascertained and viscera was preserved and according to the viscera report which is on record, it appears that she died due to consumption of insecticide, therefore, argument advanced by learned counsel for the applicant can not be

completely brushed aside at this stage.

14. Further, applicant is having no criminal history and he is in jail in the present matter since May, 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-**Alauddin**, 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 :- 14.12.2023

Ankita