

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 146 of 2023

Applicant :- Atul Kumar Gupta

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home U.P. Lko.

Counsel for Applicant :- Smt. Nalini Prakash Jain, Rajiv Raman Srivastava

Counsel for Opposite Party :- G.A., Siddharth Shankar Dubey

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Smt. Nalini Prakash Jain, learned counsel for the accused-applicant as well as learned A.G.A. for the State, Shri Siddharth Shankar Dubey, learned counsel appearing for the informant/complainant and perused the record.

2. This bail application has been moved by the accused/applicant- **Atul Kumar Gupta** for grant of bail, in Case Crime No.364 of 2022, under Sections 498-A, 304-B I.P.C. & 3/4 of the Dowry Prohibition Act, Police Station Mishrikh, District Sitapur, during trial.

3. Learned counsel for the accused-applicant while pressing the bail application submits that the applicant has been falsely implicated in this case and he has not committed any offence as claimed by the prosecution.

4. It is further submitted that the applicant has never treated the deceased with cruelty and all the allegations pertaining to demand of dowry and committing cruelty in lieu thereof are highly improbable, concocted and could not be believed. The deceased was married to the applicant in the year 2019, however, shortly after marriage it was known that the deceased is suffering from some bipolar disorder. In this regard, learned counsel for the applicant has drawn attention of this Court towards various prescriptions of Hayatt Health Solution (OPC) Pvt. Ltd., Nizamuddin West, Delhi ranging from 25.08.2019 to 15.12.2021 in order to show that the deceased was being treated for bipolar disorder.

5. It is further submitted that on the fateful day the deceased while alone in the house under the influence of some bipolar disorder has committed suicide and there was no element of either demand of dowry or committing cruelty in lieu thereof

and same has been carved out subsequently. Elaborating further, attention of this Court has also been drawn towards the inquest report of the deceased in order to show that the information of incident was given to the concerned police station by the applicant himself and it is on his information, inquest has been drawn. Highlighting some photographs placed at page no.99 to 101 of the rejoinder affidavit, it is further submitted that dead body of the deceased was in a room, which was bolted from inside and the same was broken open with the help of police personnel.

6. It is next submitted that applicant is in jail in this case since 27.07.2022 and the trial has still not started and it is not expected to conclude the same in near future. Applicant is not having any criminal history, charge-sheet in this case has already been submitted and there is no apprehension that after being released on bail the applicant may flee from the course of law or may otherwise misuse the liberty.

7. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and having regard to the material/evidence available against the applicant, he is not entitled to be released on bail, but could not controvert the other factual submissions made by learned counsel for the applicant.

8. Shri Siddharth Shankar Dubey, learned counsel appearing for the informant/complainant vehemently opposes the prayer of bail of the applicant on the ground that so far as the applicant is concerned, he is the husband of the deceased and he was mainly instrumental in subjecting the deceased to cruelty and the demand, which was being raised, could only be beneficial to the applicant and therefore, the applicant is not entitled to be released on bail.

9. Having heard learned counsel for the parties and having perused the record, it is evident that the first information of this case was given by the applicant himself to the concerned police station and it is on this information, inquest has been drawn and the postmortem of the deceased was performed. The postmortem of the deceased would reveal that a ligature mark around the neck of the deceased was found. There are certain photographs by which prima faice, at this stage, an inference may be drawn that the room, from where the dead body of the deceased was recovered in hanging state, was broken open with the help of police personnel. There are medical prescriptions of the Hayatt Health Solution (OPC) Pvt. Ltd. Nizamuddin West, Delhi from which prima facie, it may be inferred that the deceased was being treated with regard to some bipolar

disorder. These prescriptions of Hayatt Health Solution (OPC) Pvt. Ltd. Nizamuddin West, Delhi has been disputed by learned counsel for the informant/complainant. However, at this stage, in absence of any counter proof, it may not be presumed that these prescriptions are false more so when by citing these prescriptions interim relief to one co-accused person namely Ruchi Gupta Alias Priyanka Gupta was granted and she has also been granted anticipatory bail during pendency of the trial vide order dated 19.07.2023 passed in Criminal Misc. Anticipatory Bail Application U/s 438 Cr.P.C.No.645 of 2023. The necessities and finer points of contention may only be taken care of by the trial court and the same could not be subject matter of bail jurisdiction. However, having regard to all these facts in totality and keeping an eye on the alleged illness of the deceased and also the fact that the first information of the death of the deceased was given by the applicant himself and he is in jail in this case since 27.07.2022, facility of bail, in the considered opinion of this Court, may be extended to the applicant. Charge-sheet in this case has already been filed. Applicant is not having any previous criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions.

10. Having regard to the overall facts and circumstances of the case and keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus **allowed**.

11. Let the accused/applicant- **Atul Kumar Gupta** involved in above-mentioned case, be released on bail on his furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

12. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

13. Identity, status and residence proof of the applicant and sureties be verified by the Court concerned before the bonds are accepted.

14. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression of this Court on the merits of the case.

Order Date :- 30.10.2023

Anupam S/-