

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 15561 of 2021

Applicant :- Gopi Kishan

Opposite Party :- State of U.P.

Counsel for Applicant :- Satyendra Kumar
Srivastav, Vishnu Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard learned counsel for the accused-applicant as well as Shri Ravish Chandra Mishra, learned A.G.A. for the State and perused the record.

2. This bail application has been filed seeking release of the accused/applicant **Gopi Kishan** on bail, who is involved in Case Crime No. 0396 of 2021 under Sections 498-A, 304-B I.P.C & 3/4 Dowry Prohibition Act, Police Station- Motipur, District Bahraich.

3. Learned counsel for the applicant submitted that the father of the deceased lodged the First Information Report, wherein, it has been mentioned that the marriage of his daughter was performed with the present applicant prior to four years and additional dowry (motorcycle) was demanded by him. It is further mentioned that the daughter of the complainant was found dead in a pond and her body was swollen and on the information being given to him, he reached to the place of occurrence. Learned counsel for applicant submitted that the the post-mortem report of the deceased indicates that the no injury was present on the person of the deceased and she died due to drowning. The First Information Report regarding dowry demand of one motorcycle, after four years of marriage, is totally false and prior to the present case, no F.I.R regarding dowry or harassment was ever lodged by the deceased or her family members. He further submitted that the applicant is innocent and has not committed the said crime and he is languishing in jail for the last two years and three months i.e 05.09.2021.

4. Learned counsel for applicant further submitted that there is no direct evidence against the applicant that he drowned his wife. He further submitted that the wife of the applicant committed suicide for the reason that she was depressed because she had an abortion. Learned counsel for applicant further submitted that the applicant belongs to very poor family and there is no question of dowry demand.

5. Learned A.G.A for the State has opposed the prayer of

bail of the applicant and has submitted that it is a case of dowry death and Section 304-B I.P.C is attracted in the present case. He further submitted that mud was found inside the trachea of the deceased which goes to indicate that she was forcibly done to death, therefore, bail is liable to be rejected.

6. Considering the facts and circumstances of the case, perusing the record, also considering the nature of allegations, arguments advanced by the learned counsel for the parties, the argument that it is a case of suicide and the deceased died due to drowning, the argument that no injury has been found on the person of the deceased, the argument that the applicant has been languishing in jail for the last two years and three months, I find it to be a fit case for grant of bail.

7. Accordingly, the bail application is **allowed**.

8. Let the applicant **Gopi Kishan** be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against her under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

9. It is made clear that the observations made in this order

are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The Trial Court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 13.12.2023

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