

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1100 of 2023

Applicant :- Anil Kumar

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

Counsel for Applicant :- Anshul Baranwal, Rehan Ahmad Siddiqui

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Shri Rehan Ahmad Siddiqui, learned counsel for the accused/applicant as well as learned A.G.A. for the State and perused the record.
2. This bail application has been moved by the accused/applicant- **Anil Kumar** for grant of bail, in Case Crime No. 133 of 2022, under Sections 498-A, 304-B IPC & Section 3/4 of Dowry Prohibition Act, Police Station Thangaon, District Sitapur, during trial.
3. Learned counsel for the accused-applicant while pressing the bail application submits that the accused-applicant has falsely been implicated in the instant case and he has not committed any offence as claimed by the prosecution.
4. It is further submitted that the applicant is the husband of the deceased whose marriage was solemnized six years before lodging of the FIR and during this period, the deceased was never treated by the applicant with cruelty in lieu of any demand of dowry and all the allegations, which have been levelled in the FIR as well as in the statement of the prosecution witnesses with regard to the demand of dowry and committing cruelty in lieu of the same, are false, concocted and could not be believed.
5. Elaborating further, it is submitted that the deceased was under some kind of depression and it appears that she has committed suicide.
6. It is also submitted that the inquest report as well as the post mortem report of the deceased would sufficiently demonstrate that she has committed suicide as a ligature mark has been found around her neck and the cause of death has been ascertained to be asphyxia, as a result of ante mortem hanging.

7. It is further submitted that though in the statements recorded under Section 161 CrPC, the prosecution witnesses have supported the version of the prosecution. However, the two star witnesses of this crime namely, Ram Naresh (informant/complainant) as well as the brother of the deceased namely, Arvind Kumar who have been testified before the trial court as PW-2 and PW-3, respectively have not supported the version of the prosecution and they have been declared hostile. They categorically stated that the deceased was never subjected to cruelty by the applicant in lieu of dowry.

8. It is vehemently submitted that since the star witnesses of the crime have not supported the version of the prosecution, no presumption, as provided under Section 113-B of the Indian Evidence Act, may be drawn. The applicant is in jail in this case since 15.5.2022 and he is not having any criminal antecedents. Charge sheet in the matter has already been filed and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty.

9. Learned A.G.A., on the other hand, submits that having regard to the manner in which the offence has been committed the applicant is not entitled for any relief.

10. Perusal of the record in the background of the submissions raised by learned counsel for the parties would reveal that after six years of her marriage with the applicant, she died otherwise than any normal circumstances. A ligature mark has been found around the neck of the deceased and the cause of death has been stated to be asphyxia, as a result of ante mortem hanging. It is on this basis, it is vehemently submitted by learned counsel for the applicant that it is a case of suicide. The two star witnesses of this crime namely, Ram Naresh (informant/complainant) as well as the brother of the deceased namely, Arvind Kumar who have been testified before the trial court as PW-2 and PW-3, respectively have not supported the version of the prosecution and thus, they have been declared hostile. It is in this background, it is submitted that the prosecution has miserably failed to prove the initial facts on the basis of which, any presumption, as provided under Section 113-B of the Indian Evidence Act, may be drawn. The applicant is in jail in this case since 15.5.2022 without any criminal history. Charge sheet in the matter has already been filed. Presence of the applicant could be secured before the trial court by placing any adequate conditions.

11. 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 and demerits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is **allowed**.

12. Let the applicant- **Anil Kumar** involved in the aforesaid case be released on bail on 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.

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

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

15. Observations made herein-above are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

Order Date :- 19.12.2023

Shravan