

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1951 of 2023

Applicant :- Suresh

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

Counsel for Applicant :- Mrs.Suniti Sachan,Gangeshwar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

Heard Mrs. Suniti Sachan, learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.

This bail application has been moved by the accused/applicant-**Suresh** for grant of bail, in Case Crime No.56/2020, under Sections 498-A, 304-B I.P.C. & Section 3/4 of Dowry Prohibition Act, Police Station- Achalganj, District- Unnao, during trial.

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. The applicant is the husband of the deceased, who appears to have committed suicide a little after five years of her marriage with the applicant by hanging herself.

It is vehemently submitted that the applicant was never demanded any motorcycle or any other dowry and the allegations pertaining to demand of dowry and committing cruelty in lieu thereof have been carved out subsequently. However, the deceased was suffering from some metal disorder and she started living with her parents at her maternal house and had come few days before the occurrence of the alleged incident and when the applicant was not present, she under the influence of some decease appears to have committed suicide.

It is also submitted that in the five long years, the deceased remained with the applicant; she has never made any complaint of any kind to any public authority and thus, the allegations of prosecution that the deceased was being subjected to cruelty in lieu of demand of any dowry could not be believed. Only a ligature mark has been found around the neck of the deceased

and apart from that, no injury of any kind has been noticed and as per the opinion of the doctor, the death of the deceased has been caused due to asphyxia as a result of ante mortem hanging. The applicant is in jail in this case since 25.02.2020 and during these 3 years and 8 months of incarceration of the applicant in prison, only one witness has been fully testified while the statement of the second witness is being recorded and having regard to the number of witnesses cited in the charge sheet, the trial is not going to be concluded in the near future. However, the applicant undertakes that he will remain present before the trial Court on all the occasions whereon his presence would be required and would not seek any adjournment in presence of the prosecution witnesses. He is not having any criminal history 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.

Learned A.G.A., on the other hand, submits that the deceased has been done to death by the applicant and his family members for want of dowry and since a motorcycle was being demanded , the beneficiary of which could only be the applicant, he is not entitled to be released on bail.

Perusal of the record and the background of the submissions raised by the learned counsel for the parties, it would emerge that a ligature mark has been found around the neck of the deceased and the cause of death has been ascertained as asphyxia as a result of ante mortem hanging. The inquest report also fortifies that the deceased had committed suicide. It also appears to be an admitted case to the parties that for the past many months, the deceased was living in her maternal house and had come to the house of the applicant few day ago and the reason of committing suicide could also not be known to the applicant, therefore, it is alleged that he is not in a position to explain the circumstances under which the deceased had committed suicide and the same can only be explained by her parents or family members. It is also submitted that the deceased was suffering with some mental disorder and it appears that under the influence of the same, she had taken the extreme step of suicide. Admittedly, the applicant is in jail in this case since 25.02.2020 without any previous criminal history. Till now, only one prosecution witness has been fully testified. In the considered opinion of this Court, the period of 3 years and 8 months of detention in the background of the fact that no injury of any kind has been found on the person of the deceased and the cause of her death has been ascertained as asphyxia as a result of ante mortem hanging and the trial is not expected to conclude in near futher, the case of bail is made out in favour of the applicant. The presence of the applicant could

be secured before the trial court by placing adequate conditions.

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**.

Let the accused/applicant- **Suresh** 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.

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

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

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 :- 18.10.2023

Gurpreet Singh