

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2567 of 2023

Applicant :- Sandeep

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

Counsel for Applicant :- Devendra Pratap, Shashank Shekhar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard Shri Shashank Shekhar Singh, learned counsel for the accused-applicant as well as Ms. Priyanka Pandey, learned A.G.A. for the State and perused the record.

2. This bail application has been filed seeking release of the accused/applicant **Sandeep** on bail, who is involved in Case Crime No. 360 of 2022 under Sections 498-A, 304-B I.P.C & 3/4 D.P. Act, Police Station Sursa, District Hardoi.

3. Learned counsel for the applicant submitted that as per First Information Report, the informant has admitted that on 10.09.2021, she had gone to the house of her daughter for Bidai but she did not see her daughter there, therefore she presumed that she might have been murdered by her in-laws. The cause of action arose on 10 September 2021, but application under Section 156 (3) Cr.P.C was moved on 30 July 2022, i.e. after about 9 months. It has been further submitted by learned counsel for applicant that as per F.I.R, allegation of additional dowry (colour T.V, gold chain, bullet motorcycle and Rs. 1 lakh cash) has been levelled against the in-laws of the deceased.

4. Learned counsel for applicant vehemently argued that the deceased committed suicide in Mohali (Punjab) where her husband was residing and the post-mortem as well as inquest was conducted on 08.10.2021. The inquest report indicates that the father of deceased and uncle were present at the time of inquest, but no report was lodged at that time. He further submitted that cremation of deceased had taken place in Punjab itself and the father and uncle of the deceased were present there also. It is further submitted that after long lapse of time, the mother of deceased lodged complaint under Section 156(3) Cr.P.C on 30 July 2022 and in pursuance of the direction of the Court below, the First Information Report was lodged on 16 August 2022. Learned counsel for applicant further submitted that the deceased committed suicide by hanging herself as she could not accept her marriage as she felt that the match of the deceased with the present applicant was not good. It is further submitted that at the relevant time, the applicant was not present as he was doing work

as a labourer. The post-mortem report indicates that there is no internal or external injury on the person of the deceased except for the ligature mark on the neck caused due to hanging, and the cause of death is Asphyxia due to anti-mortem hanging. He further stated that there is no previous criminal history of the applicant and he is languishing in jail since 12.10.2022.

5. Learned A.G.A has opposed the bail and has submitted that the marriage of the deceased had taken place prior to one year and it is a case of dowry 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 highly belated First Information Report has been lodged, the argument that after long lapse of time, the application under Section 156(3) Cr.P.C has been moved, the argument that the father and uncle of the deceased were present at the time of post-mortem and inquest i.e. on 18.10.2021 but no F.I.R was lodged at that time, I find it to be a fit case for grant of bail.

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

8. Let the applicant **Sandeep** 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 :- 6.12.2023
DiVYa