

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3539 of 2022

Applicant :- Mithun

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

Counsel for Applicant :- Anil Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh,J.

1. Heard Shri Anil Kumar Tripathi, learned counsel for the applicant, Shri Anurag Verma, learned A.G.A. for the State and perused the record.
2. The present application under Section 439 Cr.P.C. has been filed on behalf of the applicant in Case Crime No.473 of 2021, under Section 498-A, 304B, 323, 504 and 506 I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station-Kotwali Dehat, District-Sultanpur, with the prayer to enlarge him on bail.
3. The F.I.R. in question came to be registered on an order passed by the Chief Judicial Magistrate, Sultanpur on the application under Section 156(3) Cr.P.C. filed by the brother of the deceased, who was married to the accused-applicant. The marriage took place on 06.07.2018 and with the wedlock, a son was born, who was aged about one year at the time of death of the deceased. It is alleged that the accused-applicant and his family members were not happy with the dowry and gifts given at the time of marriage and they were demanding Rs.2,00,000/- in cash for which they would torture and harass the deceased. The deceased died on 22.04.2021 due to 100% burn injuries.
4. From the reading of the F.I.R. in question, it is clear that no complaint was made against the accused-applicant and his family members about the torture and harassment being made to the deceased to the police or to the higher authorities. Only after two months from the date of the death of the deceased, an application under Section 156(3) Cr.P.C. came to be filed by the brother of the deceased on which the Chief Judicial Magistrate, Sultanpur directed to register the F.I.R. in question.
5. The postmortem report would suggest that the deceased suffered 100% burn injuries and she died due to asphyxia as a result of burn injuries suffered by her.
6. The accused-applicant is in jail since 15.12.2021. There are some documents, which would suggest that some compromise has already been arrived at between the parties in respect of the welfare of the minor child born with the wedlock.
7. Considering the rival submissions of learned counsel for the applicant and learned A.G.A. and going through the contents of F.I.R., this Court deems it appropriate to enlarge/release the accused-applicant on bail.

8. In view therefor, the present application is **allowed**.

9. Let the applicant-**Mithun**, who is involved in aforementioned case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date 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 him under Section 229-A IPC.

(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., may be issued and if 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 IPC.

(iv) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) 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.

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

(Dinesh Kumar Singh, J.)

Order Date :- 19.6.2023

Piyush/-