

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 4019 of 2023

Applicant :- Rahul

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

Counsel for Applicant :- Ashok Kumar Mishra, Aishwarya Pratap Singh, Pankaj Kumar, Sandeep Kumar (Trivedi)

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Supplementary affidavit filed today is taken on record.
2. Heard Shri Sandeep Kumar Trivedi, learned counsel for the applicant, Shri Rajnish Kumar Verma, learned AGA for the State and perused the record.
3. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.543 of 2022 under Sections 498A, 304B IPC., and 3/4 D.P. Act, Police Station Masauli, District Barabanki.
4. Learned counsel for the applicant submitted that PW1 father, PW2 mother and PW3 brother of deceased have not supported the prosecution case in their cross examination. Learned counsel has submitted that in cross examination, PW1 has deposed before the Court that dowry was not demanded by the applicant and his family members. He further deposed that applicant and deceased were in love that is why marriage was performed. He stated before the Court that his daughter had tried to commit suicide many times and she was given medical treatment by her in-laws but she could not get well and when he heard the news that his daughter had committed suicide, his mind was not working and on the behest of Pradhan and others, he lodged FIR against the applicant and his family members. Learned counsel submitted that he has denied entire version of the FIR and statement given before the police. Learned counsel has further submitted that PW2 mother of deceased and PW3 brother of deceased have also not supported the prosecution case in their cross examination and almost same version is reiterated in their statement.
5. Learned counsel submitted that except ligature mark, no external or internal injury has been found on the body of the deceased as such at this moment, it cannot be inferred that the applicant is involved in the commission of offence. Learned counsel submitted that the mother, father and brother having become hostile, therefore the applicant is entitled to be released on bail. The applicant has no criminal history and is languishing in jail since 01.10.2022.
6. Learned AGA has opposed the prayer for bail but could not dispute the fact that PW1 father, PW2 mother and PW3 brother of the deceased have not supported the

prosecution case in their cross examination.

7. Without expressing any opinion on the merits of the case, after hearing learned counsel for the parties and considering the argument that mother, father and brother of the deceased have not supported the prosecution case in their cross examination, therefore, I am of the opinion that the applicant is entitled to be released on bail.

8. Let the applicant, **Rahul** 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 him 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.

09. 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 :- 6.11.2023

Pks