

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 5434
of 2023

Applicant :- Dharmanand

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

Counsel for Applicant :- Naveen Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicant, Sri Vishwas Sarasvat, learned A.G.A. for the State and perused record.
2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.54 of 2022 under Section 498-A, 304-B IPC, and Section 3/4 of Dowry Prohibition Act, PS Dhaneypur district Gonda.
3. Learned counsel for the applicant has submitted that deceased died on 9.3.2021 and inquest was conducted on 9.3.2021 and the brother of deceased was also present during inquest and no FIR was lodged promptly. However, an application under Section 156 (3) CrPC was moved on 17.3.2021 and thereafter, FIR was lodged in pursuance of direction issued by the Court on 15.4.2022.
4. Learned counsel for the applicant has submitted that complainant has levelled allegation that for additional dowry demand of Rs.1,00,000/-, the deceased was done to death. Learned counsel for the applicant has submitted that deceased died due to electrocution which is evident as per post mortem report because electric burn injury is mentioned and the cause of death is due to electric burn injury. It has been submitted that there is no external injury on the person of deceased and it is an accidental death, therefore, the applicant cannot be held responsible in any manner. He has further submitted that there is no report of harassment or dowry demand by the family members and the applicant and death has occurred due to electrocution. Learned counsel for the applicant has invited attention of this Court towards the statement of doctor who has also stated that deceased got burn injury due to electrocution.

He has further submitted that co-accused Sitapati has been granted bail by this Court in Crl. Misc. Bail Application No.14066 of 2022 on 23.1.2023 and co-accused Keshav Ram has been granted bail by this Court in Crl. Misc. Bail Application No.2341 of 2023 on 16.2.2023, copies of bail order have been annexed as Annexure No.8 to the bail application collectively. He has submitted that the applicant has no criminal history and he is in Jail since 3.9.2022.

5. Learned A.G.A. opposed the prayer for bail but could not dispute the aforesaid fact and the fact that co-accused have been granted bail. However, he has submitted that it is a case where deceased was married prior to two years and there is allegation of additional dowry demand, therefore the case is coming within the purview of dowry death and the bail should be rejected.

6. Considering over all facts and circumstances of the case, the argument that deceased died due to electrocution, the argument that deceased died due to accident as she received burn injury due to electrocution, the argument that co-accused have already been granted bail, the argument that the doctor has also stated to the extent that deceased received burn injury due to electrocution, it is a fit case for bail.

7. Let the applicant, Dharmanand 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.

8. 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 :- 12.12.2023

Rajneesh JR-PS)