

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 5945 of 2023

Applicant :- Rajpal

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

Counsel for Applicant :- Avnish Kumar Tiwari

Counsel for Opposite Party :- G.A.,Mahi Pal Singh,Mahipal Singh

Hon'ble Brij Raj Singh,J.

1. Heard Shri Avnish Kumar Tiwari, learned counsel for the applicant, Shri Hari Shanker Maurya, learned AGA for the State. No one is present on behalf of the complainant though notice has been sufficiently served.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.668 of 2022, under Section 306 I.P.C., Police Station Atrauli, District Hardoi.

3. Learned counsel for the applicant has submitted that FIR was lodged by father of the deceased in which he has admitted that his daughter was married with the applicant on 26.11.2021 and he got information that his daughter committed suicide by hanging. Learned counsel submitted that the deceased committed suicide by hanging because there is no allegation of dowry demand either in FIR or in the statement under Section 161 Cr.P.C. of the complainant and his family members. The post mortem report indicates that except ligature mark no other injury has been found on the person of the deceased. The doctor has stated in his statement under Section 161 Cr.P.C. that cause of death is due to asphyxia as a result of ante mortem injury.

4. Learned counsel for the applicant has invited attention of this Court towards statements of Munni Lal, Bhari and Gauri Shankar recorded under Section 161 Cr.P.C. who have stated that family members of parental side of the deceased did not come to her house as she wanted to go to her parents' house. She was under depression due to aforesaid reason and she used to tell that she would die and committed suicide.

5. Learned counsel has submitted that ingredients of Section 107 IPC is not meted out in the present case because there is no active act on the part of the applicant in commission of crime. He has further submitted that there was personal grudge between husband-wife thus wife committed suicide. The applicant being husband cannot be held responsible. There is no allegation of dowry demand that is why charge sheet is filed under Section 306 IPC. It has been submitted that applicant is in jail since

09.12.2022 having no criminal antecedents to his credit.

6. Learned AGA opposed the prayer for bail and submitted that applicant being husband is responsible. The deceased committed suicide because of ill-treatment of husband as such ingredients of abetment to suicide is present as such bail application is liable to be rejected.

7. Without expressing any opinion on the merits of the case, after hearing learned counsel for the parties, argument that there is no ingredients of abetment to suicide; argument that independent witnesses have not supported the prosecution case; argument that deceased committed suicide; argument that no injury has been found on the person of the deceased except the ligature mark on the neck, therefore, in my view, it is a fit case for grant of bail.

8. Let the applicant, **Rajpal** 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.

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 :- 30.11.2023

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