

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6513 of 2023

Applicant :- Ravi Jaiswal

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

Counsel for Applicant :- Dileep Kumar Yadav,Dilip Kumar Singh Chauhan

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard Shri Dilip Kumar Singh Chauhan, learned counsel for the applicant, Shri Ravish Chandra Mishra, learned AGA for the State and perused the record.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.4944 of 2022, under Sections 498-A, 304-B I.P.C. and Section 3/4 D.P. Act, Police Station Machhrehta, District Sitapur.

3. It is contended by learned counsel for the applicant that the deceased consumed poison and on 10.06.2022 and she died. Inquest was conducted on same day, on the information given by father of the applicant. Inquest report is filed along with rejoinder affidavit which indicates that younger brother of the deceased was also present but no FIR was lodged promptly. However, application under Section 156(3) Cr.P.C. was moved on 18.06.2022 and the same was treated as complaint case and summons were issued. Thereafter, applicant surrendered before the court. Learned counsel submitted that general allegations of dowry demand of motorcycle has been levelled against the applicant.

4. Learned counsel further submitted that post mortem report indicates that there is no injury on the person of the deceased and cause of death could not be ascertained and viscera is preserved. Learned counsel has invited attention of this Court towards various medical papers which has been filed along with bail application as Annexure 4 which shows that applicant is suffering from chronic liver cirrhosis disease Hepatitis B. Since the applicant is suffering from chronic liver disease, the deceased was mentally depressed and she consumed poison.

5. Learned counsel submitted that this Court had called report from concerned District Jail regarding health condition of the applicant vide order dated 25.05.2023 and in compliance of order, the Medical Officer, District Jail, Sultanpur has sent letter on 12.06.2023 which is filed along with affidavit dated 16.06.2023 filed by the State. The said letter indicates that applicant is suffering from chronic liver Cirrhosis disease hepatitis B and doctor had opined that though it is an infectious disease, at the moment it is stable but chronic disease may become fatal at any point of time. Learned counsel submitted that applicant has not

committed any offence only for the reason that he was suffering from serious disease and the deceased under the depression commit suicide. The applicant has no criminal history. The applicant is in jail since 16.04.2023.

6. Learned AGA opposed the prayer for bail and on the basis of counter affidavit and record submitted that applicant is suffering from serious disease of liver but he also submitted that it is a case of dowry death therefore, bail is liable to be rejected.

7. Without expressing any opinion on the merits of the case and after hearing learned counsel for the parties and considering the argument that deceased herself consumed poison and committed suicide; argument that there is no injury found on the person of the deceased; argument that applicant is suffering from serious chronic disease therefore, in my opinion, it is a fit case for bail.

8. Let the applicant, **Ravi jaiswal**, 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 :- 12.12.2023

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