

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7278 of 2022

Applicant :- Saurabh S/O Siyaram

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

Counsel for Applicant :- Arjun Singh Somvanshi

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Heard Shri Arjun Singh Somvanshi, learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.

2. This bail application has been moved by the accused/applicant- **Saurabh** for grant of bail, in Case Crime No.469 of 2020, under Sections 498-A, 304-B, 201 I.P.C. and 3/4 of the Dowry Prohibition Act, Police Station Kotwali Dehat, District Hardoi, during trial.

3. Learned counsel for the accused-applicant while pressing the bail application submits that the applicant has been falsely implicated in this case and he has not committed any offence as claimed by the prosecution.

4. It is further submitted that the applicant is the husband of the deceased, who had died a little after three years of her marriage with the applicant as she was pregnant by 8 months and had undertaken a long journey from Himachal Pradesh to her village and due to this long journey, her condition was deteriorated and she died on 16.04.2019.

5. It is further submitted that cremation of the deceased was done in presence of her family members and no objection in this regard was raised by them, however, after many days of the cremation under the influence of some villagers, who were inimical towards the applicant, an application under Section 156(3) Cr.P.C. was moved. It is also submitted that the application moved under Section 156(3) Cr.P.C. was drafted with the help of legal professional and the contents thereof have been aggravated in order to attract heinous offences while the applicant or any member of his family has not treated the deceased with cruelty in lieu of any dowry and all these allegations have been carved out subsequently in order to falsely implicate the applicant.

6. It is also submitted that during the life time of the deceased no complaint of any kind has been made to any public authority and therefore, it could not be believed that the deceased had died an unnatural death more so when there is no inquest or postmortem report of the deceased. It is further submitted that falsity of the case of the prosecution would be evident by the fact that the informant has been testified before the trial court as P.W.-1 and he has not supported the allegations of F.I.R. and therefore, it is apparent that the allegations against the applicant are false and frivolous.

7. It is next submitted that applicant is in jail in this case since 03.01.2021 and till now only one prosecution witness has been testified before the trial court and having regard to the pace with which the trial is going on, it is not expected to conclude the same in near future. Applicant is not having any criminal history, charge-sheet in this case has already been submitted and there is no apprehension that after being released on bail the applicant may flee from the course of law or may otherwise misuse the liberty.

8. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and having regard to the material/evidence available against the applicant, he is not entitled to be released on bail, but could not controvert the other factual submissions made by learned counsel for the applicant.

9. Having heard learned counsel for the parties and having perused the record, it is evident that allegations against the applicant are to the tune that he was treating the deceased with cruelty in lieu of demand of Rs.1 lakh while the defence of the applicant is that the deceased was having an advanced stage of pregnancy and she undertook the journey from Himachal Pradesh to her village, whereon her condition was deteriorated and she died an natural death on 16.04.2019 and that is why no inquest or postmortem was conducted. It is also the defence of the applicant that family members of the deceased were present at the time of her cremation and the allegations against the applicant have been carved out subsequently. Admittedly the informant has been testified before the trial court as P.W.-1 and has not supported the allegations of the F.I.R. and has been declared hostile. Charge-sheet in this case has already been filed. Applicant is in jail in this case since 03.01.2021 without any previous criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions.

10. Having regard to the overall facts and circumstances of the

case and keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus **allowed**.

11. Let the accused/applicant- **Saurabh** involved in above-mentioned case, be released on bail on his furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

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

13. Identity, status and residence proof of the applicant and sureties be verified by the Court concerned before the bonds are accepted.

14. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression of this Court on the merits of the case.

Order Date :- 28.10.2023

Anupam S/-