Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7075 of 2023

Applicant :- Pradeep Kumar
Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home U.P. Civil Secrett. Lko.
Counsel for Applicant :- Firoz Ahmad Khan,Archana Rawat,Kailash Nath Mishra
Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Heard Shri Kailash Nath Mishra, 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- **Pradeep Kumar** for grant of bail, in Case Crime No. 217 of 2022, under Sections 498-A, 304-B IPC & Sections 3/4 of Dowry Prohibition Act, Police Station Raunahi, District Ayodhya/Faizabad, during trial.

3. Learned counsel for the accused-applicant while pressing the bail application submits that the accused-applicant has falsely been implicated in the instant 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 has committed suicide by hanging herself just a litter after one year of her marriage with the applicant and it is the applicant who had informed the police with regard to the happening of the unfortunate incident and the two police personnels namely, Budhpriya Gautam and Anupam Verma who had arrived at the spot, had opened the door of the room which was bolted from inside and have found the dead body of the deceased in a hanging state and one foot of the deceased was also strangled in the bed.

5. It is vehemently submitted that in the post-mortem report of the deceased, a ligature mark has been found around her neck along with three minor injuries on the lower side of the body i.e. below knee and the cause of death has been stated to be asphyxia, as a result of ante-mortem hanging and thus, it is evident that the deceased had committed suicide while bolting the door of her room from inside, which had been broken open

by the two police personnels who had arrived on the information given by the applicant.

6. It is further submitted that the deceased since long was suffering from severe stomach ache which could not be treated, she started remaining in depression and it appears that in the state of depression, she had committed suicide.

7. It is vehemently submitted that the applicant has never subjected the deceased to cruelty in lieu of demand of dowry and all the allegations with regard to the same has been carved out subsequently.

8. It is also submitted that the real state of affairs has been narrated by the two star prosecution witnesses namely, Amarjeet, informant (brother of the deceased and Phool Devi (mother of the deceased), who have been testified before the trial court as PW-2 and PW-4, respectively and though these witnesses were intact in their in chief examination, but they have chosen to become hostile while in cross examination and since the star witnesses have categorically denied the fact that the deceased was ever subjected to cruelty in lieu of demand of dowry, the whole case of the prosecution is crumbled down and no presumption, as provided under Section 113-B of the Indian Evidence Act, could be drawn against the applicant.

9. It is further submitted that the applicant is in jail in this case since 10.07.2022 and he is not having any criminal antecedents. Charge sheet in the matter has already been filed and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty.

10. Learned A.G.A., on the other hand, submits that the applicant is the husband of the deceased and therefore, he is not entitled to be released on bail.

11. Having heard learned counsel for the parties and having perused the record, it is evident that the cause of death has been ascertained due to asphyxia, as a result of ante-mortem hanging. The room wherein the dead body of the deceased was found, was found locked from inside and on an information given by the applicant, the two police personnels arrived at the spot and it was they who had opened/broken the door of the room. Thus, the deceased appears to have committed suicide. Though during the course of investigation, the prosecution witnesses have supported the prosecution story, but the informant namely, Amarjeet (brother of the deceased) and Phool Devi (mother of the deceased) have been testified before the trial court as PW-2

and PW-4, respectively and they have turned hostile under cross examination and it is on this score, it is vehemently submitted that since the prosecution is not able to prove the initial facts, the presumption given under Section 113-B of the Indian Evidence Act, could not be drawn against the applicant. The applicant is in jail in this case since 10.07.2022 without any criminal history. Charge sheet in the matter has already been filed. His presence could be secured before the trial court by placing any adequate conditions.

12. 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 and demerits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is **allowed**.

13. Let the applicant- **Pradeep Kumar** involved in the aforesaid case be released on bail on 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.

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

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

16. Observations made herein-above are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

Order Date :- 2.12.2023
Shravan

Digitally signed by :-
SHRAVAN KUMAR
High Court of Judicature at Allahabad,
Lucknow Bench