

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7950 of 2022

Applicant :- Nazim Alias Nazim Ali S/O Late Nazeer

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

Counsel for Applicant :- Rajiv Raman Srivastava, Girish Kumar Pandey, Sher Bahadur Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard learned counsel for the applicant, Sri Akhilesh Srivastava, 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.374 of 2021 under Section 498-A, 304-B, 323, 504, 506 IPC and Section 3/4 of D.P. Act, PS Khairabad, district Sitapur.

3. Learned counsel for the applicant has submitted that father of deceased lodged FIR in which he has mentioned that he had married his daughter with the applicant prior to one year. The applicant and inlaws used to demand additional dowry demand that is, fridge, cooler, colour TV and Rs.1,50,000/-. The FIR further indicates that on 18-19.9.2021 in the night, the deceased was beaten by the inlaws and she was burnt by them due to which, her health was deteriorated and she died in the hospital.

4. It has been submitted by the learned counsel for the applicant that deceased committed suicide and there is only superficial burn injury present on all over body of deceased and no other injury is found and cause of death is shock due to anti mortem burn injury. He has submitted that deceased was not happy with the marriage because she wanted to marry with some other person but she was forced to marry with the applicant and under depression, she committed suicide. This fact has been narrated by the applicant in the supplementary affidavit dated 13.12.2023. He has submitted that PW-1 father, PW-2 brother, PW-3 nephew of deceased all of them have levelled general allegation of dowry demand. It is further submitted that the applicant has been falsely implicated and he has committed no offence rather, the deceased committed suicide by herself.

5. Lastly, learned counsel for the applicant has submitted that the applicant is in Jail since 20.9.2021 for the last 27 months

and the near relative witnesses have been examined, therefore, there is no question of tempering evidence. He has further submitted that the applicant has no criminal history.

6. Learned A.G.A. opposed the bail and has submitted that the statement of PW-1, 2 and 3 have been examined and they have supported the prosecution case, therefore, the bail application is liable to be rejected.

7. Considering over all facts and circumstances of the case, the argument that deceased committed suicide by hanging herself and there is no injury found on the person of deceased except burn injury which was caused due to self-immolation, the argument that there are general allegation of dowry demand and 27 months have passed in Jail, it is a fit case for bail.

8. Let the applicant, Nazim alias Nazim Ali 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 :- 21.12.2023
Rajneesh JR-PS)