

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8210 of 2022

Applicant :- Manoj Kumar S/O Shri Keshan

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

Counsel for Applicant :- Lalji Prasad Shukla, Mohd. Shahid Akhtar, Pankaj Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard learned counsel for the applicant, Sri M.V.S. Chauhan, 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.407 of 2021 under Section 498-A, 306, 201 IPC and 3/4 of D.P. Act, PS Biswan, district Sitapur.

3. Learned counsel for the applicant has submitted that the PW-1 brother of deceased has been examined before the Trial Court. Though, in the examination-in-chief, he supported the prosecution case but in the cross-examination he has not supported the prosecution case. He deposed before the Court that the applicant and his family members were not demanding dowry and they also did not harass his sister. He further deposed that information was not written by him and he denied the case as to how the information was written. He further deposed that he was present in the last rites of his sister and it has been submitted by the learned counsel for the applicant that Section 201 IPC is also not made out, because, there is allegation that last rites of the deceased was done without informing the family members of the deceased. He has submitted that PW-1 has deposed that prior to 11 years his sister was married and there was no enmity between the PW-1 and the applicant and his family members. It has been stated by the PW-1 that his sister was suffering from illness of stomach and she had expressed her opinion to him that she wanted to die because she was suffering from bad health. Similarly, PW-2 father of deceased has also not supported the prosecution case in cross-examination and he has denied entire version of prosecution case. PW-5 witness Sri Pal has also not supported the prosecution case. Learned counsel for the applicant has filed medical paper indicating that the deceased was being treated by the doctors and certain papers of treatments have been annexed

along with the rejoinder affidavit. It has been submitted that the applicant has no criminal history and he is in Jail for more than two years i.e., since 9.9.2021. He has further submitted that trial is not likely to be concluded in near future.

4. On the other hand, learned A.G.A. has opposed the bail and has submitted that trial is yet to be concluded but he has not disputed the fact that in cross-examination the PW-1 and 2 have not supported the prosecution case. It has been further not disputed that the applicant is in Jail for more than two years and the trial is not likely to be concluded in near future.

5. Considering over all facts and circumstances of the case, the argument that the PW-1, 2 and PW-5 have not supported the prosecution case in cross-examination, the argument that the applicant is in Jail for more than two years, it is a fit case for bail.

6. Let the applicant, Manoj Kumar 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.

7. 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 :- 18.10.2023
Rajneesh JR-PS)