

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7580 of 2023

Applicant :- Kallu Saroj

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

Counsel for Applicant :- Sarjoo Ram,Aklavya,Dinesh Kumar,Gyan Prakash

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicant and Sri Bipul Kumar Singh, learned brief holder for the State.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.0029 of 2023 under sections 498A,304B IPC and 3/4 D.P. Act, Police Station Baghrai District Pratagarh.

3.It has been submitted by learned counsel for the applicant that mother of the deceased lodged FIR, making general allegation of dowry demand. She has further mentioned in the FIR that marriage of deceased was performed with son of the complainant in a temple and thereafter Vidai took place. She also mentioned in the FIR that family members used to demand dowry and it appears that some poison was administered to her due to which she died. Learned counsel for the applicant has submitted that the postmortem report does not indicate that any internal or external injuries found on the person of the deceased and cause of death was not ascertained. However, Viscera was preserved but report of viscera report has not come on record.The applicant is father-in-law and he has no concerned in any manner in the present case. Learned counsel for the applicant has further submitted that the applicant is suffering from heart pain and treatment was provided in District Jail. He has also invited attention of this Court towards letter dated 17.03.2023 issued by Superintendent ,District Jail, Pratapgarh indicating therein that the applicant had chest pain and was medically treated. Learned counsel for the applicant that the applicant is aged about 60 years and he is in jail. Learned counsel for the applicant has submitted

that the applicant and his family members has been falsely implicated in the present case. Learned counsel for the applicant has explained the criminal history of the applicant in para- 15 of the rejoinder affidavit. The applicant is in jail since 26.02.2023.

4. Learned A.G.A. has opposed the prayer for bail but could not dispute the aforesaid facts.

5. Without expressing any opinion on the merits of the case and after hearing learned counsel for the parties and looking into overall facts and circumstances of the case as well as the argument that the deceased committed suicide and general allegation of dowry demand has been levelled, the argument that no internal or external injuries were found on the person of the deceased and the argument that the health of the applicant is poor and he is old, therefore, I am of the opinion that the applicant is entitled to be released on bail.

6. Let the applicant, namely, **Kallu Saroj**, 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.

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 :- 1.11.2023

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