

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3518 of 2021

Applicant :- Hira Lal

Opposite Party :- State of U.P.

Counsel for Applicant :- Manoj Kumar Singh, Anoop Kumar, Hom Narayan Awasthi, Kunwar Pritvi Tomar

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

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

This bail application has been moved by the accused/applicant- **Hira Lal** for grant of bail, in Case Crime No.201 of 2020, under Sections 498-A, 304-B I.P.C. & 3/4 Dowry Prohibition Act, Police Station- Khairighat, District- Bahraich, during trial.

Learned counsel for the accused-applicant while pressing the bail application submits that the applicant has been falsely implicated in this case. He is husband of the deceased, who had died after one year of her marriage with the applicant by hanging herself.

It is vehemently submitted that the deceased was insisting the applicant to leave her at her maternal home, however, as the period was of Corona, where the physical movement was very difficult, on being denied, she became annoyed and committed suicide. However, there was no element of demand of dowry or subjecting her to any cruelty in lieu of the same and the same has been leveled by the informant with due consultation and after thought.

It is further submitted that in the post-mortem report, only a ligature mark has been found around the neck of the deceased and the cause of death has been ascertained as asphyxia as a result of ante mortem hanging. Thus, in all probability, the deceased had committed suicide.

It is also submitted that though, during the course of investigation, the parents as well as the brothers of the deceased are shown to have given statements in support of the allegations of the F.I.R., but during the course of trial, they have been

examined as P.W.-1, P.W.-2, P.W.-3 and P.W.-4 and while the father of the deceased, namely, Sant Ram had supported the prosecution case in his in chief examination, but had become hostile in cross examination and all other prosecution witnesses, namely, P.W.-2/Shanti Devi (Mother of the deceased), P.W.-3/Durga and P.W.-4/Prahladi (brothers of the deceased) have become hostile in their in chief examination and all these witnesses on being declared hostile were cross examined by the public prosecutor wherein they have disowned their statements recorded under Section 161 Cr.P.C.

It is vehemently submitted that since the star prosecution witnesses have chosen not to support the version of the prosecution, the conviction of the applicant would be a remote possibility, moreover, the applicant is in jail in this case since 17.07.2020 and he is not having any criminal history 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.

Learned A.G.A., on the other hand, submits that the applicant is the husband of the deceased and she has been done to death within one year of her marriage with the applicant and thus, having regard to being the husband of the deceased, the applicant is not entitled to be released on bail.

Perusal of the record would reveal that the F.I.R. of this case was lodged by the father of the deceased, who has been examined before the trial Court as P.W.-1, the mother and brothers have been examined before the trial Court as P.W.-2, P.W.-3 and P.W.-4. P.W.-1 though, was intact in his in chief examination but has chosen to become hostile in cross examination while the remaining three witnesses have not supported the version of the prosecution even in their in chief examination and on the request of the prosecution declared hostile and opportunity was provided to the public prosecutor to cross examine them. During the course of cross examination these witnesses have denied to have given the statement as stated by the Investigating officer under Section 161 Cr.P.C and it is in this background, it is submitted that since the star witnesses of this crime have chosen not to support the version of the prosecution, the likelihood of the applicant being convicted is remote. The applicant is in jail in this case since 17.07.2020 without any previous criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions.

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**.

Let the accused/applicant- **Hira Lal** 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.

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

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

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 :- 12.10.2023

Gurpreet Singh