

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9872 of 2023

Applicant :- Rajendra And Another

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

Counsel for Applicant :- Dhananjay Trivedi

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard Sri Dhananjay Trivedi, learned counsel for the applicants and Sri G.D. Bhutt learned A.G.A.-I for the State.

2. The present bail application has been filed by the applicant with a prayer to enlarge them on bail in Case Crime No. 495 of 2022 under sections 498A, 304B IPC & 3/4 Dowry Prohibition Act, Police Station Pali, District Hardoi.

3. It has been submitted by learned counsel for the applicants that FIR has been lodged by the father of the deceased making allegation of dowry demand and allegation of demanding motorcycle is also levelled in the FIR. It has been submitted by learned counsel for the applicants that information was given by the applicant to the family members of the deceased when the deceased became unwell. Family member were taking her to the hospital and she died in the way of hospital. Thereafter inquest was done and inquest report was prepared and the inquest report indicates that the applicants are also witness. Learned counsel for the applicants has submitted that the statement of Amit Kumar and Shiv Dayal, independent witnesses under section 161 Cr.P.C. has been recorded and both of them have stated that the applicant had taken the deceased to the hospital but she died in the way and the police was also informed by them thereafter postmortem was conducted. They have stated that they have not heard anything regarding demand of dowry. Learned counsel for the applicants has also submitted that as per postmortem, cause of death cannot be ascertained, therefore, viscera was preserved and report of viscera has come and as per report, organo phosphorus insecticide has been found. It has been submitted that deceased was medically treated and she

was under depression that is why she committed suicide. Learned counsel for the applicants has submitted that the applicants are father-in-law and mother-in-law and both have no concern in the matter and they are in jail since 28.03.2023. The applicants have no previous criminal history.

4. On the other hand, learned A.G.A. has opposed the prayer for bail and has submitted that it is case of dowry death as such the applicants are not entitled for bail.

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 general allegation of dowry demand has been levelled and the argument that Amit Kumar and Shiv Dayal, independent witnesses have not supported the prosecution case, therefore, I am of the opinion that the applicant is entitled to be released on bail.

6. Let the applicants, namely, **Rajendra and Smt. Shreedevi @ Maha Devi**, be released on bail in the above case crime number on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicants shall file an undertaking to the effect that they 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 applicants shall remain present before the trial court on each date fixed, either personally or through their counsel. In case of their absence, without sufficient cause, the trial court may proceed against them under Section 229-A of the Indian Penal Code.

(iii) In case, the applicants misuse the liberty of bail during trial and in order to secure their presence proclamation under Section 82 Cr.P.C. is issued and the applicants fail to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against them, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicants 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 applicants are 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 them 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 :- 23.11.2023

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