

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9900 of 2023

Applicant :- Ravi Singh

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

Counsel for Applicant :- Dinesh Kr. Sharma, Arshad Hafeez Khan, Ashok Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
2. Heard learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.
3. This bail application has been moved by the accused/applicant- **Ravi Singh** for grant of bail, in Case Crime No. 248 of 2022, under Sections 498-A, 304-B I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station Baddupur, District Barabanki, during trial.
4. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. Applicant is the husband of the deceased, who had died after four years of her marriage with the applicant by consuming some poisonous substance, however, during her stay in the house of the applicant, she was never treated with cruelty in lieu of any demand of dowry and it appears that on account of the death of the deceased under the influence of some mischievous persons the F.I.R. of this case has been lodged by showing that soon before her death the deceased was being subjected to cruelty in lieu of demand of dowry. Elaborating further, it is vehemently submitted that no complaint of any kind has ever been made by the deceased during the course of her stay in the house of the applicant with regard to any ill-treatment given to her.
5. It is also submitted that the prosecution witnesses during the course of trial have deposed the truth as three prosecution witnesses, namely, P.W.-1/Umesh Singh, P.W.-2/Sarvesh Kumari (Parents of the deceased) as well as P.W.-3/Shiv Narayan (maternal uncle of the deceased) have been testified before the trial Court and they have not alleged any allegation

against the applicant rather they have stated that the F.I.R. has been lodged on account of instigation given by some fellow-villagers.

6. It is further submitted that the presumption as provided under Section 113-B of the Indian Evidence Act may only be invoked when the prosecution would be able to prove the initial facts/ingredients provided under Section 304-B I.P.C. and since the star witness of this crime have been declared hostile and have not supported the version of the prosecution, no such presumption, now be made and, therefore, there is no sufficient material on the basis of which the conviction of the applicant would be possible.

7. It is next submitted that applicant is languishing in jail in this case since 28.11.2022 and he is not having any criminal history and there is no apprehension that after being released on bail he may flee from the course of law or may otherwise misuse the liberty.

8. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and since he was the husband of the deceased, he may not be exonerated from his responsibility and, thus, he is not entitled to be released on bail.

9. Perusal of the record would reveal that the deceased, who is the wife of the applicant had died a little after four years of her marriage with the applicant. In the first information report as well as in the statements of the witnesses recorded under Section 161 Cr.P.C. by the investigating officer, allegation of demanding dowry and committing cruelty in lieu thereof have been levelled against the applicant and other co-accused persons. However, three prosecution witnesses, namely, P.W.-1/Umesh Singh, P.W.-2/Sarvesh Kumari and P.W.-3/Shiv Narayan (Parents and maternal uncle of the deceased) have been examined before the trial Court and they have not supported the version of the prosecution, it is in this background, it is vehemently submitted that since the prosecution has failed to prove the initial facts on the basis of which the presumption as provided under Section 113-B of the Indian Evidence Act may be taken, the chances of conviction of the applicant are remote.

10. Be that as it may, it appears to be an admitted situation that three star witnesses of this crime have chosen not to support the version of the prosecution. Applicant is languishing in jail in this case since 28.11.2022 without any criminal antecedents and the presence of the applicant may be secured before the trial

court by placing adequate conditions.

11. 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**.

12. Let the accused/applicant- **Ravi Singh** 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.

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

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

15. 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 on the merits of the case.

Order Date :- 29.11.2023

Praveen