

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11266 of 2022

Applicant :- Mayaram Chauhan

Opposite Party :- State Of Up Thru. Prin. Secy. Home Lko.

Counsel for Applicant :- Naved Ali, Nisha Srivastava, Sandeep Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard Ms. Nisha Srivastava, learned counsel for the accused-applicant as well as Ms. Divya Verma, Brief Holder for the State and perused the record.

2. This bail application has been filed seeking release of the accused/applicant **Mayaram Chauhan** on bail, who is involved in Case Crime No. 253 of 2022 under Sections 306 I.P.C, Police Station Masauli, District Barabanki.

3. Learned counsel for the applicant submitted that the First Information Report has been lodged by the mother of deceased and general allegation of dowry demand has been levelled against the applicant. The F.I.R further indicates that due to demand of dowry, the deceased committed suicide. It is further submitted by learned counsel for applicant that as per post-mortem report, it is apparent that the deceased died due to anti-mortem hanging, and no other injury is found on the person of the deceased and she committed suicide by hanging herself. Learned counsel for applicant submitted that the statement of independent witnesses namely Ram Prakash, Ram Karan & Vijay have been recorded by the police and all of them have stated that the applicant had illicit relation with another woman and the deceased was unhappy by the same. They further stated that the applicant was residing in Rajasthan at the relevant time of incident and was doing his job there. They further stated that the deceased was beaten by co-accused Vishal, and on the same date, the deceased committed suicide by hanging herself.

4. Ms. Nisha Srivastava, learned counsel for applicant has given her statement at Bar that the co-accused Vishal has been granted bail by the Juvenile Court. She further submitted that there are no ingredients of Section 107 I.P.C. because there is no active participation of the applicant in instigating the deceased to commit suicide and also no direct or indirect evidence has been collected by the Investigating Officer to implicate the applicant in the said crime. Learned counsel for applicant further stated that there is no previous criminal history of the applicant and he is languishing in jail since 06.06.2022.

6. Learned A.G.A has opposed the prayer of bail of the applicant and has submitted that the deceased committed suicide in the house of the applicant, and applicant being the husband of the deceased is responsible for the same, therefore, his bail is liable to be rejected.

7. Considering the facts and circumstances of the case, perusing the record, also considering the nature of allegations, arguments advanced by the learned counsel for the parties, the argument that no direct or indirect evidence has been found against the applicant, the argument that in the statements of independent witnesses namely Ram Prakash, Ram Karan & Vijay, it has been mentioned that at the time of said incident, the applicant was doing his job in Rajasthan, the argument that ingredients of Section 107 I.P.C are not fulfilled in the present case as the applicant did not instigate the deceased to commit suicide, I find it to be a fit case for grant of bail.

8. Accordingly, the bail application is **allowed**.

9. Let the applicant **Mayaram Chauhan** 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 her 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.

10. 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 :- 17.10.2023

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