

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10726 of 2023

Applicant :- Amiraka

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

Counsel for Applicant :- Shiv Pal Singh, Ambrish Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma, J.

1. Heard Sri Ambrish Kumar learned counsel for applicant and learned A.G.A. for the State.
2. The present bail application has been filed by the applicant seeking bail in Case Crime No. 86 of 2023 under sections 498A, 304-B, 504, 506 I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station- Khairighat, District- Bahraich.
3. As per version of the F.I.R., marriage of deceased Rinki was solemnized with Amiraka (the applicant herein) three years prior to the incident. The family of the deceased gave enough dowry in the marriage, however, the accused persons i.e. her husband, his real brothers and parents were not satisfied and were demanding a motorcycle in dowry. The deceased used to be threatened and that they have been committing physical atrocities because of non-fulfillment of demand of dowry. In the intervening night on 17/18.03.2023, she was murdered and hanged. She was pregnant at that time.
4. The contentions of the applicant are that the inquest was conducted in presence of relatives of the deceased and they are signatory to the inquest report. None of them imputed any allegation at that time. The F.I.R. has been lodged after legal consultation. and they have not imputed any allegation at that time. Medical report indicated death by hanging. There is no injury except the ligature mark caused by hanging. The medical evidence does not reveal that any kind of physical atrocities were committed soon before her death. The parents of the deceased also submitted affidavits to the Investigating Officer saying that their daughter was not murdered by any person and that the first informant lodged the F.I.R. on the basis of a wrong advice of certain persons and that they have settled the matter between themselves.
5. It is further contended on behalf of the applicant that deceased was married to the applicant three years prior to the incident. Ordinary disputes between husband and wife went out of hands and has been deliberately converted into a criminal case. The applicant is innocent. The evidence at the most can touch the periphery of section 306 I.P.C. The applicant is in custody since 09.05.2023 i.e. since about more than six months and that he has no criminal history and that he shall cooperate in the trial and shall not misuse the liberty granted if bailed out.
6. The application for bail is opposed by learned A.G.A. However, it is conceded that that there is no such injury which can point towards

physical assault or atrocities meted out to deceased soon before death and that the affidavits filed by the parents of the deceased are also available on record.

7. I went through the contents of the F.I.R., the statement given by the witnesses under Section 161 Cr.P.C. Taking into account all the facts and circumstances of the case, as well as the period of custody, absence of any previous criminal history and all the attending facts and circumstances of the case I find it a fit case for bail.

8. Let applicant - **Amiraka** be released on bail in the aforesaid Case Crime Number on his furnishing personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not temper with evidence/witnesses.

(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) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) framing of charge and (ii) recording of statement under Section 313 Cr.P.C. without exception.

9. 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 :- 16.11.2023

Sumit Kumar