

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13393 of 2022

Applicant :- Chhotkan

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

Counsel for Applicant :- Arun Kumar Singh, Saurabh Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard Shri Arun Kumar Singh, learned counsel for the applicant, Shri Vipul Kumar Singh, holding brief of Shri G.D. Bhatt, learned AGA-I for the State and perused the record.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.139 of 2021, under Sections 498-A, 304-B I.P.C., and Section 3/4 D.P. Act, Police Station Ghungter, District Barabanki.

3. It is contended by learned counsel for the applicant that the FIR has been lodged by father of the deceased in which general allegation of dowry demand and no specific demand has been levelled in the FIR. Learned counsel has submitted that statement under Section 161 Cr.P.C. of the complainant indicates that the deceased was married with the applicant on 22.4.2015 thus more than six years had passed from the date of marriage. The deceased committed suicide because there was some family issue between deceased and the applicant and out of depression, she committed suicide.

4. The post mortem report indicates that there is only one ligature mark which was caused by hanging and cause of death is asphyxia as a result of ante mortem hanging. He submitted that in the statement under Section 161 Cr.P.C. as well in FIR, the complainant has not stated that any prior FIR was ever lodged by him or by the deceased regarding dowry harassment or dowry demand. It has been submitted that the applicant is in jail since 13.10.2021 and more than two years have passed and trial of this case is not possible to be concluded in near future, as such the applicant may be released on bail,

5. Learned AGA opposed the prayer for bail and submitted that the applicant is husband of the deceased is involved in committing the crime because there is allegation of additional dowry demand and deceased committed suicide due to pressure of dowry demand thus, it is not a fit case for bail.

6. Without expressing any opinion on the merits of the

case and after hearing learned counsel for the parties and considering the argument that there is general allegation of dowry demand, no injury was found on the person of the deceased except ligature mark which was caused due to hanging; argument that applicant is languishing in jail for more than two years in jail, therefore, I find it to be a fit case for bail.

7. Let the applicant, **Chhotkan**, 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 him 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.

8. 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 :- 30.11.2023

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