

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12356 of 2022

Applicant :- Salahuddin Alias Monu

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

Counsel for Applicant :- Purshottam Chaurasia, Dinesh Kumar, Prashant Kumar Chaurasia

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.
2. This bail application has been filed seeking release of the accused/applicant **Salahuddin Alias Monu** on bail, who is involved in Case Crime No. 101 of 2022 under Sections 498A, 304B I.P.C and Section 3/4 of Dowry Prohibition Act, Police Station Bandhuakala, District Sultanpur.
3. Learned counsel for the applicant submitted that the deceased committed suicide by throwing herself in front of the train and she was run down by the train and died on 08.08.2021. He further submitted that the inquest report was prepared on 08.08.2021 and on the same date the family members of the deceased identified the deceased's body. It has been submitted that no prompt F.I.R was lodged, however an application under Section 156 (3) Cr.P.C was filed on 17.08.2021 and the police had submitted a report mentioning that the deceased committed suicide and after investigation, it was found that the family members of the deceased were not responsible for the same.
4. On considering the police report, the court below had rejected the application under section 156(3) Cr.P.C on 11.10.2021 against which a revision was filed, which was allowed vide order dated 02.04.2022 and in pursuance of the direction given by the court, the F.I.R was lodged on 09.05.2022 i.e. after nine months from the date of the incident.
5. It has further been submitted by the learned counsel for the applicant that the statement of Mohd. Ali and Reshma, have been recorded under Section 161 Cr.P.C., they both

have stated that after the death of the deceased they got information that after the execution of marriage of the applicant with the deceased, some one used to message the applicant by using filthy language against the deceased. They have not specified as to how the applicant and his family members were involved in commission of the crime and also it has been submitted that general allegation of dowry demand has been levelled against the applicant. The deceased died near her parent's home and the place of occurrence is 2 Km away from her father's house whereas the in-law's house of the deceased is 45 Km from the place of occurrence. This indicates that the in-laws' of the deceased were not responsible for causing death of the deceased. He further stated that there is no previous criminal history of the applicant and he is languishing in jail since 23.06.2022.

6. Learned AGA has opposed the bail application and has submitted that it is a case of dowry death and the marriage has taken place prior to three months and presumption goes against the applicant. Therefore, the 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 the death of the deceased took place near her parent's home which is 2 Km away from the place of incident whereas her in-law's house is 45 Km away; argument that the police have also submitted that a report in application under Section 156(3) Cr.P.C that the family members of the applicant and the applicant were not involved in any manner; the argument that no incriminating or clinching evidence is found against the applicant and he is languishing in jail for the past one year and four months; the argument that the deceased committed suicide by throwing herself in front of train and the applicant and his family members were not involved in that act of the deceased, I find it to be a fit case for grant of bail.

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

9. Let the applicant **Salahuddin Alias Monu** 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 :- 13.10.2023

DiVYa