

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11311 of 2023

Applicant :- Mangal Kumar

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

Counsel for Applicant :- Ajeet Kumar Singh, Reetu Singh

Counsel for Opposite Party :- G.A., Dharmendra Kumar

Hon'ble Mrs. Jyotsna Sharma, J.

1. Heard Sri Ajeet Kumar Singh, learned counsel for the applicant and the learned A.G.A. for the State.

2. The present bail application has been filed by the applicant seeking bail in Case Crime No. 238 of 2023 under sections 498-A, 304-B I.P.C. and section 3/4 of D.P. Act, P.S.- Laharpur, District- Sitapur.

3. As per the version of the F.I.R., daughter of the first informant was married of by him to Mangal s/o Ram Gopal, a year before the incident. The first informant gave enough dowry as per his capacity. The in-laws and other family members were not satisfied with the articles given in dowry and they were demanding a golden chain. They were committing physical and mental atrocities on her because of non-fulfillment of the demand. Feeling depressed by their conduct, she committed suicide in the night of 08.04.2023. As per prosecution case and finding enough evidence, three persons out of six named in the F.I.R. were charge sheeted.

4. It is submitted on behalf of the applicant that there is no truth in the prosecution case and that his wife committed suicide because of reasons quite different from those alleged in the F.I.R. Before lodging of this F.I.R., first informant himself gave an application in the police station concerned about the suicide committed by his sister. Drawing attention of this Court to this information which was entered by the police in G.D. No. 23 dated 9.4.2023, it is contended that at that time no allegation of harassment due to demand and non-fulfillment of dowry has been imputed against any person, much less the applicant. It is further contended that the postmortem report points towards an incident of suicide and not of any harassment meted out to her soon before death in unnatural circumstances.

5. The applicant has filed a supplementary affidavit today, which is taken on record. Copies of two statements, one given by the first informant as P.W.1 and the other given by Pehalwan (father of the deceased) as P.W.2 have been annexed with the supplementary affidavit. On the basis of these statements recorded during the trial, it is contended that both the witnesses have not supported the prosecution case and instead have given statements which can be categorized as exonerating the accused applicant.

6. The application for bail is opposed by learned A.G.A. highlighting the facts as given in the F.I.R. and also argued that there is no reason for a married woman to commit suicide within a year of marriage except the maltreatment which might have meted out to her by in-laws and other members of the family. During the arguments, it is conceded that the statements given by material witnesses before the trial court need to be

considered.

7. I considered all the material on record including the supplementary affidavit filed today, the medical evidence, the statements recorded during investigation and all attending facts and circumstances. Applicant is in custody since 30.05.2023 i.e. for more than six months now and that none can say with certainty that how long will it take the trial to conclude. I find it fit case for granting bail to the applicant.

8. Let applicant - **Mangal Kumar** 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