

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11507 of 2023

Applicant :- Chandra Kali

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

Counsel for Applicant :- Anand Kumar

Counsel for Opposite Party :- G.A.,Abhishek Srivastava

Hon'ble Brij Raj Singh,J.

1. Vakalatnama filed by Shri Abhishek Srivastava, on behalf of complainant is taken on record.
2. Heard Shri Anand Kumar, learned counsel for the accused-applicant, Shri Abhishek Srivastava, learned counsel for complainant as well as Shri Ranvijay Singh, learned A.G.A. for the State and perused the record.
3. This bail application has been filed by the applicant for bail, in Case Crime No. 394 of 2023 under Sections 498A, 304-B I.P.C and Section 3/4 D.P. Act, Police Station Kotwali Sadar, District Kheri.
4. Learned counsel for the applicant submitted that the First Information Report was lodged by the brother of the deceased wherein it is mentioned that the in-laws of the deceased demanded additional dowry of Rs.80,000/- (rupees eighty thousands) and a fridge. It is further stated that the deceased was done to death on 04.05.2023 by her husband and her in-laws. Learned counsel for applicant further submitted that the applicant is the mother-in-law of the deceased and she has a separate living and he has annexed the certificate of separate living issued by Gram Pradhan (Annexure-8). He further substantiated his argument with the statement of one Kumari Priyanshi (niece of deceased), daughter of real sister of deceased, who was present in the house at the time of incident. She, in her statement, has stated that the deceased was beaten by her husband on the date of incident. She further stated that on the date of incident, the applicant was not present in the house. The statement of other witness namely Sunil has been recorded, who has stated that the applicant was living separately with her daughter.
5. Learned counsel for the applicant further submitted that the

deceased committed suicide by hanging herself. He further stated that the except for the ligature mark on the neck of the deceased, there are two more injuries on the body of the deceased, which could have been caused by the husband of the deceased, and the said fact is evident as per the statement of witness namely Kumari Priyanshi, who has stated that the deceased was beaten by her husband on the date of incident. He further submitted that the applicant is the mother-in-law of the deceased and has been falsely implicated in the present case and no specific role has been assigned to her. He further stated that there is no previous criminal history of the applicant and she is languishing in jail since 1.7.2023.

6. Learned A.G.A has opposed the prayer of bail of the applicant and has stated that it is a case of dowry death, therefore, the applicant is not entitled for bail and her 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 general allegation of dowry demand has been levelled against the applicant, the argument that as per the statement of witnesses namely Kumari Priyanshi and Sunil, it is evident that the the applicant was not present at the place of incident on the said date, and the argument that the deceased committed suicide by hanging herself, I find it to be a fit case for grant of bail.

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

9. Let the applicant **Chandra Kali** be released on bail in the above case crime number on her 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 she 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 her counsel. In case of her 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 her presence proclamation under Section

82 Cr.P.C. is issued and if the applicant fails to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against her, 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 her 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 :- 6.11.2023
Rajneesh JR-PS)