

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13670 of 2022

Applicant :- Vipin

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

Counsel for Applicant :- Upendra Kumar Awasthi, Farhan Alam Osmany

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard Shri Farhan Alam Osmany, learned counsel for the applicant as well as Ms. Priyanka Pandey, learned A.G.A. for the State and perused the record.

2. This bail application has been filed seeking release of the accused/applicant **Vipin** on bail, who is involved in Case Crime No. 0258 of 2022 under Sections 306 I.P.C, Police Station Majhila, District Hardoi.

3. Learned counsel for the applicant submitted that the First Information Report was lodged by the father of the deceased, wherein it is mentioned that the daughter of the complainant was married to the applicant on 29.05.2014 and two children were born out of the wedlock. It is further alleged that the applicant was a drunkard and he used to harass his daughter and his daughter had expressed her opinion of committing suicide many times and on the date of the incident, the deceased was beaten by the applicant that is why she committed suicide. Learned counsel for applicant further submitted that the deceased committed suicide by hanging herself and no injury was found on the person of the deceased, except for the ligature mark on the neck caused due to hanging and the cause of death has been reported to be Asphyxia due to anti-mortem hanging. He further submitted that the marriage of the deceased had taken place prior to eight years and no complaint or F.I.R was ever lodged by the deceased or her family members prior to the present case.

4. Learned counsel further submitted that the relation between the husband (applicant) and wife (deceased) was not cordial that is why the deceased committed suicide and there is no active role of the applicant in instigating the deceased to commit suicide and no ingredient of Section 107 I.P.C is attracted in the present case. He further submitted that there is no direct evidence which indicates that the applicant was involved in abetting the crime in any manner. He further submitted that though the statements of the parents and near relative of the deceased have been recorded before the trial Court and all of them have stated

the same version as mentioned in the First Information Report that the applicant was a drunkard and he used to harass the deceased, and even if their statements are taken into consideration that the applicant is a drunkard, it cannot be inferred that the applicant abetted the crime and there is no evidence of instigation against the applicant. He further stated that there is no previous criminal history of the applicant and he has been languishing in jail since 17.08.2022, and also he has two children who are to be looked after by him, therefore, the applicant is entitled for bail.

5. Learned A.G.A has opposed the prayer of bail of the applicant and has submitted that as per allegation of F.I.R., the deceased committed suicide because of cruelty done to her by the applicant and she further submitted that after looking into the statements of P.W.-1, P.W.-2 and P.W.-3, one fact has come on record that the applicant was a drunkard and he used to harass the deceased, therefore, his bail is liable to be rejected.

6. 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 marriage had taken place prior to 8 years and no F.I.R. was ever lodged by the deceased nor her family members regarding any kind of harassment, the argument that the deceased committed suicide by hanging herself, the argument that there is no evidence against the applicant to indicate that the applicant, in any manner, abetted the deceased to commit suicide, the argument that no external or internal injury has been found on the person of the deceased except for the ligature mark caused due to hanging, the argument that no ingredient of Section 107 I.P.C has been attracted in the present case , I find it to be a fit case for grant of bail.

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

8. Let the applicant **Vipin** 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.

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 :- 19.12.2023

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