

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12120 of 2023

Applicant :- Jadunath @ Yadunath

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

Counsel for Applicant :- Bhanu Pratap Singh, Manoj Kumar Yadav, Mohd. Tariq

Counsel for Opposite Party :- G.A., Ram Bux Rawat

Hon'ble Mohd. Faiz Alam Khan, J.

1. Counter affidavit filed by the informant/complainant is taken on record.
2. Learned A.G.A. informs that he has procured complete instructions in the matter including upto date case diary of the case.
3. Heard Shri Mohd. Tariq, learned counsel for the accused-applicant as well as learned A.G.A. for the State, Shri Ram Bux Rawat, learned counsel for the informant/complainant and perused the record.
4. This bail application has been moved by the accused/applicant- **Jadunath @ Yadunath** for grant of bail, in Case Crime No.283 of 2023, under Sections 323, 498-A, 304-B I.P.C. and Section 3/4 of the Dowry Prohibition Act, Police Station Mitauli, District Lakhimpur Kheri, during trial.
5. Learned counsel for the accused-applicant while pressing the bail application submits that the applicant has been falsely implicated in this case and he has not committed any offence as claimed by the prosecution.
6. It is further submitted that the applicant is the father-in-law of the deceased, who is shown to have died after year and one month of her marriage with the son of the applicant. However, since their marriage, they were living separately and the applicant was not having any concern with their affairs. In this regard attention of this Court has been drawn towards Annexure No.6 to the bail application, which is extract of the pariwar register, wherein family members of the applicant excluding deceased and her husband has been shown and it is submitted that since the applicant was living separately, he may not be

obliged to explain the circumstances under which the deceased has either died or committed suicide.

7. It is also submitted that postmortem report of the deceased would reveal that a ligature mark has been found around the neck of the deceased and cause of death has been ascertained as Asphyxia as a result of ante mortem hanging, which denotes that in all probability, the deceased had committed suicide and in presence of the husband of the deceased, no liability or responsibility could be fastened on the applicant to explain the circumstances, under which the deceased had committed suicide as the applicant was living separately in the same house and was not having any concern with their affairs. Thus the role of the instant applicant is distinguishable and on different footing from the role of the husband of the deceased.

8. It is further submitted that prior to the lodging of the F.I.R., the informant had given an information pertaining to the suicide committed by the deceased and it is noticed in that information given on 30.06.2023 at about 14:10 hours, the inquest of the deceased has been drawn and thus lodging of the F.I.R. is nothing but after thought. It is also submitted that general allegations of demand of dowry has been made against all the accused persons named in the F.I.R., however, no overact or specific allegation has been levelled against the applicant and in presence of the husband of the deceased, the applicant could never be the beneficiary of the dowry, which was being allegedly demanded.

9. It is also submitted that applicant is languishing in jail in this case since 25.07.2023 and he is not having any criminal history and there is no apprehension that after being released on bail he may flee from the course of law or may otherwise misuse the liberty.

10. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and therefore, he is not entitled to be released on bail.

11. Shri Ram Bux Rawat, learned counsel for the informant/complainant vehemently opposes the prayer of bail of the applicant on the ground that the applicant has committed heinous offence and the deceased has been done to death just after one year of her marriage with the son of the applicant and at the time of death of the deceased, she was pregnant of 3 months. It is also submitted that the Sessions Judge, Lakhimpur Kheri while rejecting the prayer of bail of the applicant has not given weight-age to the fact that the applicant was living

separately and thus having regard to the fact that he was living in the same house, he is not entitled to be released on bail.

12. Having heard learned counsel for the parties and having perused the record, it is evident that admittedly the instant applicant is the father-in-law of the deceased. It also appears to be an admitted fact that inquest of the deceased has been drawn on the information given by the informant on 30.06.2023 at 14:10 hours i.e. prior to the lodging of the F.I.R. of this case i.e. at 16:53 hours on 01.07.2023, thus the F.I.R. has been lodged after one day of the occurrence. The applicant is stated to be living separately in the same house and in this regard, reliance has been placed on the extract of pariwar register in order to fortify the argument of separate living. It is vehemently submitted on behalf of the applicant that in presence of the husband of the deceased he could not be the beneficiary of any dowry, which was being allegedly demanded and he is not in a position to explain the circumstances under which the deceased had committed suicide. The postmortem report of the deceased would reveal that a ligature mark around the neck of the deceased has been found on the person of the deceased and the cause of death of the deceased is ascertained as due to asphyxia as a result of ante mortem hanging. General allegations of demand of dowry has been made against all the accused persons named in the F.I.R. and one of the accused named in the F.I.R. namely Kuldeep has not been charge sheeted and it is argued with considerable force that no overact or specific allegation has been levelled against the applicant, thus the role of the instant applicant is distinguishable and on different footing from the role of the husband of the deceased. Applicant is languishing in jail in this case since 25.07.2023 without any criminal antecedents and the presence of the applicant may be secured before the trial court by placing adequate conditions.

13. Keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus **allowed**.

14. Let the accused/applicant- **Jadunath @ Yadunath** involved in above-mentioned case, be released on bail on his furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the

investigation or trial.

(ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

15. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

16. Identity, status and residence proof of the applicant and sureties be verified by the Court concerned before the bonds are accepted.

17. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression on the merits of the case.

Order Date :- 16.10.2023

Anupam S/-