

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12356 of 2023

Applicant :- Achchhe Lal Yadav

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

Counsel for Applicant :- Ajay Madhavan

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Supplementary affidavit filed on behalf of the applicant today in Court is taken on record.
2. Heard learned counsel for the applicant, learned A.G.A. and perused the record.
3. The applicant is involved in Case Crime No. 357 of 2013, under Sections 498-A & 304-B IPC and Section 3/4 of the Dowry Prohibition Act, Police Station Jai Singhpur, District Sultanpur.
4. Learned counsel for the applicant has submitted that the deceased died due to electrocution on 08.07.2013. The FIR was lodged by the father of the deceased on 10.07.2013. The police investigated the matter and after investigation, final report was filed on 06.01.2014. The father of the deceased filed a protest petition before the court concerned and summons were issued on 01.10.2014. Thereafter the applicant surrendered on 20.08.2023 as soon as he got information that he is wanted in that case. It is further submitted that the contents of the FIR indicates that the father of the deceased levelled allegation for addition demand of dowry of motorcycle and buffalo against the in-laws of the deceased. It is mentioned in the FIR that daughter of the complainant was harassed by her in-laws for

additional demand of dowry and on the date of occurrence, she was done to death by her in-laws including the husband. Learned counsel for applicant invited the attention of this Court towards postmortem report of the deceased, which indicates that the deceased received three injuries. Since the cause of death could not be ascertained, therefore, Viscera was preserved. As per Viscera report, no poison was found. Learned counsel for applicant has further submitted that since cause of death could not be ascertained, therefore, on the request of C.O., a medical board was constituted.

5. By means of supplementary affidavit opinion of Medical Board has been filed. As per report of Additional Director, medico-legal, U.P. Lucknow, the deceased could have died due to electrocution.

6. Further learned counsel for applicant has drawn the attention of this Court towards the statements of Shiv Kumar Yadav and Ram Kewal Yadav. The statements of Ram Kewal Yadav and Shiv Kumar Yadav were recorded under Section 161 Cr.P.C. As per statement of witness Shiv Kumar Yadav, the deceased was moving the pedestal fan towards her. She got electric shock and body clinged in the fan and she died due to electrocution. The same statement has also been given by witness Ram Kewal Yadav. Learned counsel for applicant has further submitted that it is not a case of dowry death rather it is a case of accidental death, therefore, the applicant cannot be held responsible for accident. The applicant has no previous criminal history. The applicant is in jail since 20.08.2023.

7. Learned A.G.A. has, however, opposed the prayer for bail and has submitted that there is allegation of demand of dowry against the in-laws of the deceased, therefore, the case is within the purview of dowry death. The deceased died within seven

years of her marriage. Therefore, the bail of the applicant is liable to be rejected.

8. Considering the facts and circumstances of the case, perusing the record and also considering the nature of allegations, arguments advanced by the learned counsel for the parties and keeping in view the fact that earlier in this case final report was filed after considering the evidence on record and the deceased died due to electrocution, without expressing any opinion on the merit of the case, I find it to be a fit case for granting bail.

9. Let applicant (Achchhe Lal Yadav) be released on bail in the aforesaid case crime number on his furnishing a personal bond and two reliable sureties of the like amount to the satisfaction of the court concerned subject to following conditions, which are being imposed in the interest of justice:-

(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. The applicant shall not tamper with the evidence.

(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) 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.

Order Date :- 22.12.2023

Virendra