

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12383 of 2023

Applicant :- Shiv Kumar Singh @ Dinesh

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

Counsel for Applicant :- Dharmendra Kumar Misra

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Learned A.G.A. informs that he has procured complete instructions in the matter including up-to-date case diary.
2. Heard Shri Dharmendra Kumar Misra, learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.
3. This bail application has been moved by the accused/applicant- **Shiv Kumar Singh @ Dinesh** for grant of bail, in Case Crime No.375 of 2023, under Sections 498-A, 304-B I.P.C. & 3/4 of the Dowry Prohibition Act, Police Station Maurawan, District Unnao, during trial.
4. 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.
5. It is further submitted that the applicant is the father-in-law of the deceased, who had committed suicide after about four years of her marriage with the son of the applicant. Attention of this Court has been drawn towards the extract of copy of the pariwar register placed at page nos.47, 49 and a certificate issued by the Village Pradhan in order to show that the applicant and the deceased were living separately.
6. It is vehemently submitted that since the deceased was living separately with her husband, the applicant may not be obliged to explain circumstances under which the deceased had sustained injuries and committed suicide as the same could only be explained by the husband, who was living with the deceased in a separate house. It is also submitted that the applicant may not be the beneficiary of the vehicle bolero and Rs.1.5 lakh in cash, which was allegedly demanded from the deceased.

7. Highlighting the inquest report and postmortem report of the deceased, wherein apart from some injuries of the nature of lacerated wound and contusion, a ligature mark is also noticed and the cause of death has been ascertained due to asphyxia as a result of ante mortem hanging, it is submitted that the deceased had committed suicide and the same could only be explained by her husband, who was living separately with her 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. 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.

8. It is next submitted that It is also submitted that identically placed co-accused person namely Kalpana (mother-in-law of the deceased) has been granted bail by a co-ordinate Bench of this Court, vide order dated 12.10.2023 passed in Criminal Misc. Bail Application No.12166. Applicant is languishing in jail in this case since 17.09.2023 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.

9. 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 having regard to the material/evidence available against the applicant, she is not entitled to be released on bail.

10. Having heard learned counsel for the parties and having perused the record, it is evident that the applicant is the father-in-law of the deceased. The deceased was married to the son of the applicant about 4 years prior to her death. The postmortem report of the deceased would reveal that apart from a ligature mark around the neck of the deceased, some injuries have 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. However, separate living has been claimed by the applicant and in order to substantiate the plea of separate living, reliance has been placed on the extracts of pariwar register brought on record with regard to the deceased and her husband as well as the applicant. A certificate issued by the Village Pradhan has also been relied and it is submitted on the basis of these documents that in presence of the husband of the deceased, the liability could not be fastened on the applicant, who was living separately, to explain the circumstances, under

which the deceased had sustained injuries and to explain the circumstances under what condition, the deceased had committed suicide. Identically placed co-accused person namely Kalpana (mother-in-law of the deceased) has already been granted bail by a co-ordinate Bench of this Court. Applicant is in jail in this case since 17.09.2023 and he is not having any criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions.

11. 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**.

12. Let the accused/applicant- **Shiv Kumar Singh @ Dinesh** 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.

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

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

15. 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 :- 18.10.2023

Anupam S/-