

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14325 of 2022

Applicant :- Manoj Kumar

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

Counsel for Applicant :- Abhishek Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicant, Sri Ramesh Kumar, learned A.G.A for the State and perused the record.

2. The present bail application has been filed on behalf of the applicants for bail in case crime No.441 of 2015 under Section 498-A/304-B and 3/4 of Dowry Prohibition Act, PS Gilaula, district Shrawasti.

3. Learned counsel for the applicant has submitted that the father of deceased lodged report under Section 498-A, 304-B IPC and 3/4 of D.P. Act against Nanku Prasad father-in-law, the mother-in-law and one relative Santram and the name of the applicant who is husband, has been specifically excluded and he has mentioned in the FIR that the applicant was not present at the house at the time of occurrence. He has specifically levelled allegation of harassment and dowry demand against the accused named in the FIR. The chargesheet was not filed against the applicant husband. However in the statement under Section 161 CrPC also, the complainant has not levelled any allegation of dowry demand against the applicant. It has been submitted that statement of PW-1 father of deceased was recorded on 13.2.2017 and for the first time, he made allegation of dowry demand against the applicant though, in the FIR dated 22.3.2015, no such dowry demand allegation was mentioned by him against the applicant. It has been submitted by the learned counsel for the applicant that on the basis of statement given by the PW-1 and by invoking the provisions under Section 319 CrPC, the applicant has been summoned and he has surrendered before the Court below on 9.11.2022 and he has been sent to Jail. It has been submitted by the learned counsel for the applicant that PW-1PW-1 has given statement against the applicant regarding dowry demand which is afterthought otherwise, at the time of lodging FIR and at the time of recording statement under Section 161 CrPC, nothing adverse was said against the applicant. He has further submitted that the

applicant has been falsely implicated. He has submitted that the applicant has no criminal history and he is in Jail since 9.11.2022.

4. Learned A.G.A. has opposed the prayer for grant of bail and has submitted that in the statement before the Trial Court, the dowry demand allegation is levelled against the applicant but he could not dispute the fact that the applicant was not named in the FIR lodged by the PW-1 father of the deceased and no allegation of dowry demand was levelled against the applicant.

5. Considering the submissions of learned counsel for parties, the argument that the applicant is not named in the FIR and no allegation of dowry demand was mentioned in the FIR against the applicant, the argument that the statement given before the Trial Court is afterthought against the applicant husband, it is a fit case for bail.

6. Let the applicant Manoj Kumar 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 him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuse 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.

7. 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 :- 10.10.2023
Rajneesh JR-PS)