

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12428 of 2023

Applicant :- Brijbhan Singh

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

Counsel for Applicant :- Sukh Deo Singh, Paritosh Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard learned counsel for the applicant, Shri G.D. Bhatt, learned A.G.A. assisted by Shri Vipul Kumar Singh, learned brief holder for the State and perused the record.
2. The applicant is involved in FIR/Case Crime No. 251 of 2023, under Sections 498-A & 304-B IPC and Section 3/4 of the Dowry Prohibition Act, Police Station Lambhua, District Sultanpur.
3. Learned counsel for the applicant has submitted that the applicant is the father in law of the deceased and he is 61 years old. The FIR of this case was lodged by the father of the deceased on 5.8.2023 with the allegation that the marriage of his daughter was solemnized with Chandan Singh on 05.05.2018. After marriage, her in-laws used to make demand of additional dowry. It is further mentioned in the FIR that Alto Car was also demanded and continuously his daughter was harassed and she was done to death by all the family members on 04.08.2023. As per postmortem report, the deceased died due to asphyxia as a result of ante mortem strangulation. It is submitted that the applicant is residing separately in the same house and there is a separate kitchen also. The applicant has not committed any offence in any manner. Whatever has happened is between the husband and the wife and the applicant is not

responsible for the incident. It is further submitted that the applicant is a patient of brain- hemorrhage. The applicant was medical treated by the doctor of Department of Neurology, K.G.M.U. Lucknow. In support of his submission he has annexed report of Department of Neuro Surgery, K.G.M.U., Lucknow as Annexure No. 6 to the bail application, which indicates that Right Hemispheric Chronic SDH with Tentorial Sah was diagnosed. There is also OP finding recorded by the doctor as "Right Frontal & Parietal double burr done about 40 ml of dark colour fluid came out. Thorough cauage done with NS mixed with Antibiotics EVD Drain Placed in Cavity. Hemostasis Achieved wouldnd closed in layer done." It is further submitted that the applicant is also suffering from various disease. The applicant has no previous criminal history. The applicant is in jail since 6.8.2023.

4. Learned A.G.A. has, however, opposed the prayer for bail but he has not disputed the above contention made by the learned counsel for the accused-applicant.

5. 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 the applicant suffered from brain hemorrhage and he needs extra care who is 61 years old and without expressing any opinion on the merit of the case, I find it to be a fit case for granting bail.

6. Let applicant Brijbhan Singh 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