

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12648 of 2023

Applicant :- Balram Yadav

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

Counsel for Applicant :- Dinesh Kr. Chaudhary

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Rejoinder affidavit filed on behalf of the applicant is taken on record.
2. Heard Shri Dinesh Kr. Chaudhary, 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- **Balram Yadav** for grant of bail, in Case Crime No. 309/2023, under Sections 498-A, 306 IPC and 3/4 Dowry Prohibition Act, Police Station Kotwali Bhinga, District Shrawasti, during trial.
3. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. The applicant is the husband of the deceased who appears to have committed suicide after 9 years of her marriage without there being any apparent reason.
4. It is further submitted that the deceased had resided with the applicant for about 9 years and in these 9 years she has never made any complaint with regard to any cruelty committed by the applicant in lieu of any demand of dowry and it appears that the prosecutrix had committed suicide as she was mentally disturbed.
5. It is further submitted that it could not be believed by any stretch of imagination that after residing with the deceased for 9 years the applicant would start committing cruelty on her in lieu of demand of Bullet Motorcycle and Rs. 1,00,000/- as no complaint has never been made to the public authority by the deceased or her family members pertaining to such demand earlier.

6. It is also submitted that the applicant is in jail in this case since 13.07.2023 and he is not having any criminal antecedent. Charge sheet in this case has already been submitted and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty.

7. Learned A.G.A., however, opposes the prayer for bail of the applicant on the ground that the applicant was the husband of the deceased and he was instrumental in committing cruelty with her and thus, sufficient abetment has been given by him for committing suicide.

8. Having heard learned counsel for the parties and having perused the record, it is transpired that the allegations against the applicant are of treating the deceased with cruelty in lieu of demand of Rs. 1,00,000/- and Bullet Motorcycle. Admittedly the deceased had died due to 'asphyxia' as a result of 'ante-mortem hanging' and two ligature marks have been found around her neck. The hyoid bone has been found intact justifying the death by hanging. The defence of the applicant appears to be that the deceased has resided with the applicant for about 9 years and in these 9 long years no complaint of any kind has been made to any public authority with regard to any demand made by the applicant or of committing cruelty in lieu of the same and the same has been carved out after the sad demise of the deceased. The applicant is in jail in this case since 13.7.2023 and is not having any criminal antecedent. Charge sheet in this case has already been submitted. His presence may be secured before the trial court by placing adequate conditions.

9. 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 and demerits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is **allowed**.

10. Let the applicant- **Balram Yadav** involved in the aforesaid case be released on bail on 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.

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

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

13. Observations made herein-above are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

Order Date :- 6.12.2023

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