

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12735 of 2023

Applicant :- Pappu

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

Counsel for Applicant :- Sudhaker Prakash

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicant and G.D. Bhutt, learned A.G.A. for the State.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.162 of 2023, under sections 498A, 304B IPC and 3/4 of D. P. Act, Police Station Thangaon, District Sitapur.

3.It has been submitted by learned counsel for the applicant that applicant is father-in-law of the deceased. Learned counsel for the applicant has submitted that the co-accused Sunita @ Pappi, who is mother-in-law of the deceased, has been granted bail by coordinate Bench this Court vide order dated 06.10.2023 passed in Criminal Misc. Bail Application No.11821 of 2023. The detailed bail order of co-accused- Sunit @ Pappi is quoted below:-

"1. Supplementary affidavit filed by learned counsel for applicant is taken on record.

2. Heard Shri Sudhaker Prakash, 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 filed seeking release of the accused/applicant Sunita @ Pappi on bail, who is involved in Case Crime No. 162 of 2023 under Sections 498-A, 304-B I.P.C and 3/4 D.P. Act, Police Station Thangaon, District Sitapur.

4. Learned counsel for the applicant submitted that the First Information Report was lodged by the father of the deceased in which general allegation of dowry demand

has been levelled against the applicant. It is mentioned in the F.I.R. that the applicant and her family members used to demand dowry (Rs. One Lakh Cash, Fridge, cooler and a washing Machine) and they used to harass the victim/deceased. Learned counsel for applicant further submitted that prior to the present case, no complaint was lodged by the deceased or her family members. He further submitted that the main allegation is levelled against the husband of the deceased and witnesses namely Arun Kumar and Satya Prakash under Section 161 Cr.P.C have stated that there was altercation between deceased and her husband and the deceased fell down in the Ghaghra River. He further submitted that the applicant is the mother-in-law of the deceased and has been falsely implicated in the present case as the main allegation is levelled against the husband of the deceased.

5. Learned counsel for the applicant further submitted that the post-mortem report does not indicate any external or internal injury on the body of the deceased and the cause of death is anti-mortem drowning. He further stated that only general allegation has been levelled against the applicant and no specific role has been assigned to her. He further stated that there is no previous criminal history of the applicant and she is languishing in jail since 18.07.2023.

6. Learned A.G.A has opposed the prayer of bail of the applicant and has stated that it is a case of dowry death, therefore, the applicant is not entitled for bail and her bail is liable to be rejected.

7. Considering the facts and circumstances of the case, perusing the record, also considering the nature of allegations, arguments advanced by the learned counsel for the parties, the argument that general allegation of dowry demand has been levelled against the applicant, the argument that post-mortem report does not indicate any internal or external injury on the person of the deceased and the cause of her death is drowning, the argument that prior to the present case, no F.I.R regarding dowry demand or harassment was ever lodged by the deceased or her family members, the argument that main allegation has been levelled against the husband of the deceased, I find it to be a fit case for grant of bail.

8. Accordingly, the bail application is allowed. "

4. He also submitted that the case of the applicant is at par with co-accused Sunita @ Pappi thus, the applicant may also be granted bail on the ground of parity. It has also been submitted that general allegation of dowry demand has been levelled against the applicant. The applicant has no previous criminal history and there is no possibility of fleeing away from the judicial process or tempering with the witnesses and in case, the applicant is enlarged on bail, he shall not misuse the liberty of bail. The applicant is in jail since 18.07.2023.

5. On the other hand, learned A.G.A. though opposed the prayer for bail but could not dispute the fact that co-accused Sunita @ Pappi, who is mother-in-law of the deceased has been granted bail by this Court. He also could not dispute the fact that case on merit having similar footing to that of co-accused Sunita @ Pappi.

6. Without expressing any opinion on the merits of the case and after hearing learned counsel for the parties and looking into overall facts and circumstances of the case as well as the argument that general allegation of dowry demand has been levelled against the applicant and the argument that the case of the applicant is at par with the co-accused Sunita @ Pappi, who is mother-in-law of deceased has already granted bail by this Court, therefore, I am of the opinion that the applicant is entitled to be released on bail on the ground of parity.

7. Let the applicant, namely, **Pappu**, 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 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.

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 :- 31.10.2023

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