

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13147 of 2023

Applicant :- Shobharam Yadav

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

Counsel for Applicant :- Anshuman Singh, Dhananjay Kumar Maurya

Counsel for Opposite Party :- G.A., Manoj Kumar Singh

Hon'ble Brij Raj Singh, J.

1. Counter affidavit filed by learned AGA is taken on record.
2. Heard Shri Anshuman Singh, learned counsel for the applicant, Shri Vinay Kumar Singh, Advocate holding brief of Shri Manoj Kumar Singh, learned counsel for the complainant and Shri Onkar Nath Pandey, learned AGA for the State and perused the record.
3. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.152 of 2023, under Section 306 I.P.C. Police Station Ranipur, District Bahraich.
4. Learned counsel for the applicant submitted that father of deceased lodged FIR mentioning therein that prior to 15 years, marriage of his daughter was performed with the applicant and he has leveled allegation that dowry was demanded by the applicant since the beginning of marriage. It is mentioned in the FIR that on the date of occurrence i.e. on 15/16-7-2023 deceased was found hanging from roof and her daughter was killed by the applicant.
5. Learned counsel submitted that admittedly, the marriage had taken place prior to 15 years but no dowry demand or any FIR was ever lodged by the deceased or by her family members. Though FIR was lodged under Section 302, 498A IPC and Section 3/4 D.P. Act but later on during investigation, it was found that it was a case of abetment therefore, Section 306 IPC was invoked. Learned counsel has invited attention of this Court towards the statement of son of deceased, who is 12 years namely Mohit Yadav who has mentioned that door was locked from inside, when it was open, it was found that mother was hanging from roof. He further mentioned that his mother had given birth to a girl child just prior to few days who died and therefore mother was unhappy and was suffering from depression. He was further asked question by the Investigating Officer whether his mother was harassed by anyone, he answered that no one had harassed her mother.
6. It has been submitted by learned counsel for the applicant that the deceased was mentally depressed that is why prior to her death, she strangled her six years old daughter. The post mortem of the daughter indicates that she died due to ante mortem strangulation who was done

to death by her deceased mother and three injuries was caused to the deceased daughter due to reason that she was beaten by the deceased and thereafter she was strangled. It has been submitted that no injury was found on the body of the deceased except ligature mark which indicates that it is a case of suicide.

7. Learned counsel submitted that applicant being father could not have assaulted his own daughter for no reason. Learned counsel for the applicant has further invited attention towards the statement of independent witness Sahejram, Sangam Lal, both of them have stated in the statement under Section 161 Cr.P.C. that deceased wanted to live separately and the applicant did not fulfill her wish, perhaps this was the reason the deceased committed suicide. Learned counsel for the applicant has submitted that there is no direct evidence which indicate that applicant was involved in commission of crime therefore, ingredients of section 306 IPC is not found in the present case and applicant has been falsely implicated. The applicant has no criminal history and is in jail since 29.07.2023.

8. Learned counsel for the complainant submitted that deceased had committed murder of six years old child who received three injuries and he abated the deceased to commit suicide, as such bail is liable to be rejected.

9. Learned AGA for the State has also submitted that crime has been committed by the applicant and bail of the applicant is liable to be rejected.

10. Considering the over all facts and circumstances of the case, looking to the argument that prior to 15 years, marriage had taken place and there was no allegation of dowry demand; argument that deceased committed suicide and no injury was found on the person of the deceased except the ligature mark, argument that son of the deceased aged 12 years has not supported the prosecution case, argument that there is no direct evidence found against the applicant in the commission of crime therefore, I find it to be a fit case for bail.

11. Let the applicant **Shobharam Yadav** 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.

12. 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 :- 28.11.2023

Pks