

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13179 of 2023

Applicant :- Chheddu @ Chheda And Another

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

Counsel for Applicant :- Pankaj Kumar Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicants, Sri G. D. Bhatt, learned AGA for State and perused record.

Supplementary affidavit filed today, is taken on record.

2. This application for bail is file by the applicant for bail in case crime No.472 of 2023 under Section 498-A, 304-B IPC and 3/4 of Dowry Prohibition Act, PS Nighasan, district Lakhimpur Kheri.

3. Learned counsel for the applicants has submitted that FIR has been lodged by the father of deceased mentioning that prior to two years, the marriage was performed and the relation of the deceased was not cordial with the inlaws because they used to harass her. He has further levelled allegation that additional dowry demand of Rs.1,00,000/- and one motorcycle was demanded by them. He further levelled allegation that he got information that his daughter had died.

4. Learned counsel for the applicants has submitted that deceased committed suicide because the relation between the deceased and husband was not cordial and the applicants are living separately. He has further submitted that post mortem report indicates that there is only one ligature mark which is caused by hanging. However, second injury i.e., abraded contusion of 2 cm x 1 cm over the left side of chin which could have been caused by the rope and the same is not due to assault by anybody. He has further submitted that 10 months old grandson is living in Jail along with the applicants for the reason that deceased had one son and there is no one to look after the grandson that is why, the grandson is also along with

the applicants in Jail. Learned counsel for the applicants has further submitted that Nanad (sister-in-law) has been granted bail by the Court below. He has further submitted that the applicants have no criminal history and they are in Jail since 15.7.2023.

5. On the other hand, learned AGA has opposed the bail and has submitted that it is a case of dowry death and bail is liable to be rejected.

6. Considering over all facts and circumstances of the case and the argument that general allegation of dowry demand has been levelled, the argument that the deceased committed suicide by hanging and cause of death is due to asphyxia as a result of anti mortem hanging, the argument that the applicants are living separately, the argument that the Nanad has been granted, it is a fit case for bail.

7. Let the applicants Chheddu alias Chheda and Reshma alias Meera be released on bail in the above case crime number on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicants shall file an undertaking to the effect that they 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 applicants shall remain present before the trial court on each date fixed, either personally or through their counsel. In case of his absence, without sufficient cause, the trial court may proceed against them under Section 229-A of the Indian Penal Code.

(iii) In case, the applicants misuse the liberty of bail during trial and in order to secure their presence proclamation under Section 82 Cr.P.C. is issued and the applicants fail to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against them in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicants 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 applicants 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 them in accordance with law.

8. 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 :- 24.11.2023

Rajneesh JR-PS)