

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13210 of 2023

Applicant :- Visheshwar And Another

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

Counsel for Applicant :- Kuldeep Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Learned A.G.A. informs that he has procured complete instructions in the matter including upto date case diary.

2. Heard Shri Kuldeep Singh, learned counsel for the accused-applicants as well as learned counsel representing the State and perused the record.

3. This bail application has been moved by the accused/applicants namely **Visheshwar** and **Ruprani** for grant of bail, in Case Crime No.418 of 2023, under Sections 498-A, 304-B I.P.C. and 3/4 of the Dowry Prohibition Act, Police Station Motipur, District Bahraich, during trial.

4. Learned counsel for the accused-applicants while pressing the bail application submits that the applicants have been falsely implicated in this case and they have not committed any offence as claimed by the prosecution.

5. It is further submitted that the applicants are parents-in-law of the deceased, whose marriage was solemnized with the son of the applicants, 5 years before lodging of the F.I.R., however, since the marriage of the deceased with the son of the applicants, they were living separately in a separate house and the applicants were not having any concern with their affairs. To substantiate his submission, learned counsel for the applicant has drawn attention of this Court towards the extracts of the pariwar register pertaining to applicants as well as the family of the deceased, wherein the house numbers are shown as 817 and 818, respectively.

6. It is further submitted that since the applicants were living separately, they may not be obliged to explain the circumstances, under which the deceased has sustained three injuries and also as to how she has died as the same could only

be explained by the husband, who was residing with the deceased. It is also submitted that general allegation of demand of a motorcycle and she buffalo has been imputed against all the accused persons named in the F.I.R. as well as in the statement of the prosecution witnesses, however, in presence of the husband of the deceased, the applicants may not be beneficiary of the dowry, which was being alleged demanded.

7. It is also submitted that the applicants are in jail in this case since 19.07.2023 and they are not having any criminal history. Charge sheet in this case has already been filed and there is no apprehension that after being released on bail the applicants may flee from the course of law or may otherwise misuse the liberty.

8. Learned A.G.A., however, opposes the prayer of bail of the applicants on the ground that the applicants are accused of committing an heinous offence and having regard to the provisions contained under Section 113-B of the Indian Evidence Act. applicants are not entitled to be released on bail, but could not controvert the other factual submissions made by learned counsel for the applicants.

9. Having heard learned counsel for the parties and having perused the record, it is evident that the deceased, who was daughter-in-law of the applicants, had died after 5 years of her marriage with the son of the applicants. The cause of death of the deceased has been ascertained due to asphyxia as a result of ante mortem hanging and three injuries of minor nature have also been found on her person. Separate living has been claimed and reliance has been placed on the extracts of the pariwar register, wherein the house numbers of the applicants and the deceased as well as her husband are separate. General allegation of demand of a motorcycle and she buffalo has been made and the defence of the applicants appears to be that as they were of the age of 50 years and 48 years, respectively and were living separately, they may not be the beneficiary of the articles, which were being allegedly demanded and they may also not be obliged to explain the circumstances, under which the deceased has either committed suicide or has been done to death as the same could only explained by the husband, who was living with the deceased. The applicants are in jail in this case since 19.07.2023 and they are not having any criminal history. Charge sheet in this case has already been filed. The presence of the applicants could be secured before the trial court by placing adequate conditions.

10. Having regard to the overall facts and circumstances of the case and 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 of the case, I am of the considered view that applicants have made out a case for bail. The bail application is thus **allowed**.

11. Let the accused/applicants namely **Visheshwar** and **Ruprani** involved in above-mentioned case, be released on bail on their furnishing personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicants shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(ii) The applicants shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicants shall not indulge in any criminal activity or commission of any crime after being released on bail.

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

13. Identity, status and residence proof of the applicants and sureties be verified by the Court concerned before the bonds are accepted.

14. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression of this Court on the merits of the case.

Order Date :- 7.11.2023

Anupam S/-