

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13490 of 2023

Applicant :- Kulvant Kaur

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

Counsel for Applicant :- Anurag Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Supplementary counter affidavit filed by the learned AGA is taken on record.
2. Heard Shri Anurag Kumar Singh, learned counsel for the applicant, Shri Mukesh Singh, 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.0092 of 2023, under Sections 498-A, 304-B I.P.C., and Section 3/4 D.P. Act, Police Station Bhira, District Lakhimpur Kheri.
4. Learned counsel for the applicant submitted that FIR has been lodged by mother of the deceased alleging that prior to two years, her daughter was married with the son of applicant and for an additional dowry demand, her daughter was harassed and beaten by her family members and she got information that her daughter died on 04.3.2023. Learned counsel submitted that applicant is mother in law of the deceased and is residing separately along with her husband and she has filed Pariwar register (Annexure (2)). The deceased committed suicide by consuming poison named organochlora insecticide. It has been submitted that there are three injuries found on the person of the deceased caused during struggle period when poison had given effect on the body. After consuming poison, there was restlessness in body of the deceased and she scratched muscle that is why injuries are found on the person of the deceased. It is submitted that the said injuries have not been caused by applicant.
5. Learned counsel submitted that the female child was born prior to three months, who is living with the applicant in jail and there is no one to look after her. He further submitted that case of the applicant is distinguishable with the case of co-accused i.e. her husband. Learned counsel submits that the applicant is a lady and further requested for the benefit of Section 437 Cr.P.C. The applicant has no criminal history and is in jail since 06.09.2023.
6. On the other hand, learned AGA opposed the prayer for bail and submitted that the applicant is involved in the commission of offence and it is a case of dowry death therefore, bail of the applicant is liable to be rejected.
7. Considering the over all facts and circumstances of the case and looking to the argument that the applicant is

living separately, argument that deceased committed suicide; argument that applicant is a lady therefore, benefit of Section 437 Cr.P.C. may be given, as such I find it to be a fit case for bail.

8. Let the applicant **Kulvant Kaur**, be released on bail in the above case crime number on her 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 she 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 her absence, without sufficient cause, the trial court may proceed against her 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 her 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 her, 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 her in accordance with law.

9. 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