

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13594 of 2023

Applicant :- Taiba Alias Gudia

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Lko.

Counsel for Applicant :- Amjad Siddiqui, Mohemmed Amir Naqvi

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard Shri Mohemmed Amir Naqvi, learned counsel for the accused-applicant as well as Shri Asif Khan, learned A.G.A. for the State and perused the record.

2. This bail application has been filed seeking release of the accused/applicant **Taiba Alias Gudia** on bail, who is involved in Case Crime No. 0186 of 2023 under Sections 498A, 304-B I.P.C and Section 3/4 D.P. Act, Police Station Dubagga, District Lucknow.

3. Learned counsel for the applicant further submitted that the First Information Report has been lodged by the father of the deceased, wherein it is mentioned that for dowry demand, the daughter of the complainant was harassed by the applicant and her family members. Learned counsel for applicant further mentioned that the statement of the father of the deceased (complainant) was recorded under Section 161 Cr.P.C, wherein he has specifically levelled allegation against the father-in-law of the deceased and in his statement, the complainant has stated that prior to two months, his daughter was given electric shock by her father-in-law. Similar fact has been narrated by the mother of the deceased and it has been submitted by learned counsel for the applicant that the F.I.R version has been improved and in the statement under Section 161 Cr.P.C, additional dowry demand of Rs. 5 lacs and a Bullet motorcycle has been levelled against the applicant.

4. Learned counsel for the applicant further submitted that the the post-mortem report does not indicate any external or internal injury on the body of the deceased except for the ligature mark on the neck. He further submitted that the deceased committed suicide by hanging herself because the relationship between the the deceased and her husband was not cordial because the husband of the deceased sold the *stree dhan* of the deceased along with all other jewellery items and went to Saudi Arabia. The deceased was depressed due to aforesaid reason and she committed suicide. Learned counsel for applicant further submitted that the applicant is a lady (mother-in-law of the

deceased) and has requested for the benefit of Section 437 Cr.P.C. Learned counsel for applicant submitted that general allegation of dowry demand has been levelled against the applicant and she has been falsely implicated in the present case as no report was ever lodged prior to the present case and no specific role has been assigned to the applicant. Learned counsel for applicant has further stated that there is no previous criminal history of the applicant and she is languishing in jail since 20.07.2023.

5. Learned A.G.A for the State have 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.

6. 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 the applicant is the mother-in-law of the deceased and general allegation of dowry demand has been levelled against her, the argument that post-mortem report does not indicate any internal or external injury on the person of the deceased except for the ligature mark on the neck, the argument that the deceased committed suicide by hanging herself, the argument that the applicant is a lady and has requested for the benefit of Section 437 Cr.P.C, the argument that F.I.R version has been improved in the statements under Section 161 Cr.P.C, I find it to be a fit case for grant of bail.

7. Accordingly, the bail application is **allowed**.

8. Let the applicant **Taiba Alias Gudia** 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 her 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 if 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 :- 14.12.2023
DiVYa