

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13676 of 2023

Applicant :- Saraswati

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

Counsel for Applicant :- Iqbal Ahmad

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Counter affidavit on behalf of the State as well as personal affidavit of Shri Raghvendra Singh, Circle Officer, Balrampur, who is Investigating Officer in Case Crime No. 305 of 2023 filed today in Court is taken on record.
2. Investigating Officer Shri Raghvendra Singh, is present person before this Court. The personal affidavit filed by him is found to be satisfactory and he need not appear again. His personal appearance is hereby exempted.
3. The applicant is involved in Case Crime No. 305 of 2023, under Sections 498-A & 306 IPC, Police Station Panchderwa, District Balrampur.
4. Learned counsel for the applicant has submitted that FIR of this case was lodged by the father of the deceased in which it has been mentioned that his daughter was married prior to four years with one Anil. The applicant is mother-in-law of the deceased. Her husband and her in-laws including the present applicant used to harass the deceased for additional dowry. The deceased died on 17.8.2023.
5. It has been further submitted by learned counsel for applicant that in this case charge sheet has been filed after considering the statements of the witnesses as well as affidavit of complainant

wherein it has been pointed out that his daughter (deceased) was married with Anil on 13.05.2013. Her *Gauna* was performed on 06.12.2019. It is further submitted that the said fact is evident from the perusal of Annexure Nos. CA-6 and CA-7 annexed with counter affidavit. The Investigating Officer reached to the conclusion that the marriage of the deceased with Anil was solemnized prior to ten years. Therefore, the charge sheet was filed under Section 306 IPC and there is no direct or indirect evidence against the applicant collected by the Investigating Officer. As per postmortem report, the deceased died due to asphyxia as a result of ante-mortem hanging.

6. Learned A.G.A. has, however, opposed the prayer for bail but he could not dispute the fact that the marriage of the deceased took place prior to ten years of the incident. Therefore, the charge sheet was filed under Section 306 IPC instead of under Section 304-B IPC.

7. Considering the overall aspects of the matter and keeping in view the postmortem report as well as the fact that marriage took place ten years prior to the incident and there is no internal or external injury except ligature mark around the neck, which was caused due to hanging and without expressing any opinion on the merit of the case, I find it to be a fit case for granting bail.

8. Let applicant (Saraswati) be released on bail in the aforesaid case crime number on her furnishing a personal bond and two reliable sureties of the like amount to the satisfaction of the court concerned subject to following conditions, which are being imposed in the interest of justice:-

(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. The applicant shall not tamper with the evidence.

(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 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.

Order Date :- 18.12.2023

Virendra