

**Court No. - 27**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 14426 of 2023

**Applicant :-** Om Nath

**Opposite Party :-** State Of U.P. Thru. Secy. Home Deptt. U.P. Govt. Lucknow

**Counsel for Applicant :-** Vinay Kumar, Sanjay Shukla

**Counsel for Opposite Party :-** G.A.

**Hon'ble Brij Raj Singh, J.**

1. Supplementary affidavit filed on behalf of the applicant, is taken on record.
2. Heard learned counsel for the applicant and Sri G.D. Bhutt, learned A.G.A.-I for the State.
3. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.0245 of 2023 under sections 498-A/304-B IPC and 3/4 D.P. Act, Police Station Chowk District Lucknow.
4. It has been submitted by learned counsel for the applicant that FIR has been lodged by the father of the deceased in which he has mentioned that for dowry demand, harassment was made against his daughter and on the date of occurrence i.e. on 26.10.2023, the applicant, who is father-in-law of the deceased came to his house and told him that his daughter had consumed some poison and she was in unconscious condition. The complainant reached to ERA Hospital and the doctor of ERA Hospital advised to take her to Medical College, Lucknow where she declared dead.
5. It has been submitted by learned counsel for the applicant that there is no specific dowry demand levelled against the applicant and admittedly the marriage of the deceased had taken place with son of the applicant which was inter-religious marriage, therefore, there is no question of dowry demand. Learned counsel for the applicant has submitted that it appears that out of altercation between the wife and husband, she committed suicide. He has further submitted that the applicant had brought the deceased in his family and accepted her as his daughter-in-law but due to bad relation between the

husband and wife, she committed suicide. It has also been submitted by learned counsel for the applicant that the applicant has no role rather he himself informed the father of the deceased and also daughter-in-law was admitted by him in ERA Hospital. The applicant has no previous criminal history and he is in jail since 28.10.2023.

6. Learned counsel for the applicant has further submitted that deceased and son of the applicant had earlier approached before this Court by filing Criminal Misc. Writ Petition No.1916 of 2022, challenging the FIR of Case Crime No.0066 of 2022 under section 366 IPC, Police Station Chowk, District Lucknow. This Court passed an interim order on 18.04.2022 directing that the deceased and her husband would not be arrested in the aforesaid case crime. Learned counsel for the applicant has submitted that the marriage was registered before the Marriage Officer Lucknow on 11.07.2022 between the deceased and the son of the applicant.

7. On the other hand, Sri G.D. Bhutt, learned A.G.A.-1 has opposed the prayer for bail and on the basis of instructions received to him, he has submitted that in the statement recorded under section 161 Cr.P.C., the father of deceased/ complainant has stated that dowry was demanded by the applicant and his son that is why deceased committed suicide. He has submitted that the version of the FIR has been reiterated and has also submitted that the charge-sheet has not been filed in this case.

8. Without expressing any opinion on the merits of the case and after hearing learned counsel for the parties and looking into overall facts and circumstances of the case as well as the argument that there is no specific demand of dowry, argument that since the marriage was inter-religious between the deceased and the son of the applicant, therefore, there is no question of dowry demand, the argument that section 498-A IPC is not attracted in the present case and at the most it is case of dispute between wife and the husband and the case of the applicant is distinguishable, therefore, I am of the opinion that the applicant is entitled to be released on bail.

9. Let the applicant, namely, **Om Nath**, be released on bail in the above case crime number on his 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 he 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 his absence, without sufficient cause, the trial court may proceed against him 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 his 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 him, 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 him in accordance with law.

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 :- 11.12.2023**

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