

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14585 of 2023

Applicant :- Shyamu

Opposite Party :- The State Of U.P. Thru. Its Prin. Secy. Home Deptt., Govt. Lko.

Counsel for Applicant :- Vyas Narayan Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicant and Sri G.D. Bhutt learned A.G.A.-I for the State.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.83 of 2023,under Sections 306 IPC, Police Station Gadaganj District Raebareli.

3. It has been submitted by learned counsel for the applicant that the deceased has committed suicide by hanging herself. Admittedly, the marriage of the applicant was performed with the deceased prior to 10 years. Learned counsel for the applicant has submitted that FIR has been lodged by the brother of the deceased in which he has mentioned that his sister was married in the year 2013 and the applicant and his family members used to harass her and she was hanged by them on 22.05.2023. It has been submitted by learned counsel for the applicant that the investigation was conducted and final report has been filed in favour of all the family members except the present applicant, who is husband and charge-sheet has been filed against him under section 306 IPC, though the FIR was lodged under section 302 IPC.

4. It has been submitted by learned counsel for the applicant that the deceased committed suicide and there is ligature mark on the neck and no other injury is found on the other part of the body and the cause of death is due to anti-mortem hanging. Learned counsel for the applicant has invited attention towards the statement of independent witnesses, namely, Rajesh, Chabi Nath and many other witness. Their statement was recorded by the Investigating Officer, who have stated on oath that the deceased was suffering from depression that is why she

committed suicide and the applicant has been falsely implicated in the present case. All the independent witnesses have also stated that deceased was also given local treatment (Exorcism). Learned counsel for the applicant has submitted that inquest report was conducted and the complainant as well as the father of the deceased were also present. Learned counsel for the applicant has submitted that there is no active part on behalf of the applicant in commission of crime. Learned counsel for the applicant has submitted that the deceased committed suicide because she was suffering from depression as well as some ailment which is admitted in the statement of the independent witnesses. Learned counsel for the applicant has submitted that the applicant has no criminal history that goes to indicate that no FIR of dowry demand or harassment was ever lodged by the deceased or her family members. The applicant is in jail since 11.06.2023.

5. On the other hand, learned A.G.A. has opposed the prayer for bail and has submitted that statement of father and brother of the deceased goes to indicate that the deceased was harassed by the applicant and his family member that is why she committed suicide and it is case of abetment.

6. 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 the deceased committed suicide by hanging and no injury was found on the body except the ligature mark on her neck, the argument that all the independent witnesses have stated on oath that the deceased was suffering from various ailment that is why she committed suicide and the argument that there is no ingredients of section 107 IPC and there is also no direct evidence, therefore, I am of the opinion that the applicant is entitled to be released on bail.

7. Let the applicant, namely, **Shyamu**, 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 :- 12.12.2023

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