

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14892 of 2023

Applicant :- Smt. Sambhara

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

Counsel for Applicant :- Suresh Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard Suresh Kumar Yadav, learned counsel for the applicant and Sri Veer Pal Singh learned A.G.A. for the State.

2. The present bail application has been filed by the applicant with a prayer to enlarge her on bail in Case Crime No.306 of 2023, 498-A, 304-B IPC and 3/4 of the Dowry Prohibition Act, Police Station Ram Sanehi Ghat, District Barabanki.

3. It has been submitted by learned counsel for the applicant that father of the deceased lodged FIR making allegation for addition dowry his daughter was harassed by the applicant and his family members. Further allegation is levelled to the extent that the additional demand of Rs.100000/- and a motor cycle was made by the family members. It has been submitted by learned counsel for the applicant that the applicant had informed to the complainant that his daughter died, therefore, he went to her Sasural and saw that her daughter was lying dead. It has been submitted by learned counsel for the applicant that husband of the deceased informed to the police-station thereafter postmortem and inquest was conducted. Learned counsel for the applicant has submitted that the deceased committed suicide by hanging and no internal and external injuries were found on the person of the deceased except ligature mark on the neck. He has also submitted that marriage had taken place prior to five years and there was some altercation between the husband and wife that is why she committed suicide and the applicant is not held responsible for commission of crime. It has been submitted by learned counsel for the applicant that the applicant is mother in law as such the benefit of section 439 Cr.P.C. may be granted to her and the applicant is in jail since 05.11.2023.

4. Learned A.G.A. has opposed the prayer for bail and has submitted that it is case of dowry death, as such the applicant is not entitled for bail.

5. 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 general allegation of dowry demand is levelled and the argument that deceased committed suicide by hanging and no internal or external injuries were found on the person of the body except the ligature mark, therefore, I am of the opinion that the applicant is entitled to be released on bail.

6. Let the applicant, namely, **Smt. Sambhara**, 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 his 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.

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 :- 18.12.2023

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