

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 15007 of 2023

Applicant :- Manne

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

Counsel for Applicant :- Manoj Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicant, Sri Mukesh Singh, learned A.G.A. for the State and perused record.
2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.228 of 2023 under Section 306, 498-A, PS Gilaula, district Shrawasti.
3. Learned counsel for the applicant has submitted that FIR has been lodged by the brother of deceased in which he has mentioned that prior to 12 years, his sister was married with the applicant who used to harass her from the beginning. It is further mentioned that on the date of occurrence, the deceased committed suicide due to harassment done by the applicant.
4. Learned counsel for the applicant has submitted that deceased committed suicide by hanging and there is no injury found on the person of deceased except ligature mark. He has further submitted that for the last 12 years, the married life of deceased and the applicant was successful and there was no any complaint ever lodged by the deceased or her family members. He has submitted that though the independent witnesses have stated that the applicant had beaten the deceased but the post mortem report does not indicate that there is any injury found on the person of deceased. He has further submitted that the statement of independent witnesses are not credible at the moment. He further submitted that there is no ingredient of Section 107 IPC available because there is no allegation that the applicant has abetted the crime by doing active act rather, the statement is made in the FIR that she was beaten by the applicant but there is no injury found on the person of deceased.

He further submitted that there is no direct and clinching evidence which may indicate that the applicant was involved in commission of crime. He has further submitted that the applicant has no other criminal history and he is in jail since 26.9.2023.

5. Learned A.G.A. though opposed the prayer for bail but could not dispute the aforesaid facts.

6. Considering over all facts and circumstances of the case, the argument that deceased committed suicide by hanging and no injury is found on her body except the ligature mark, the argument that there is no complaint of harassment or FIR ever lodged by the deceased or her family members, there is no ingredient of Section 107 IPC is found, the argument that there is no evidence that the applicant was involved in commission of crime, the argument that the statement of independent witnesses are not credible at the moment, it is a fit case for bail.

7. Let the applicant, Manne 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.

8. 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 :- 19.12.2023

Rajneesh JR-PS)