

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 15230 of 2023

Applicant :- Shyam Kala

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

Counsel for Applicant :- Haridwar Singh (H.D.Singh)

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicant, Sri Avishesh Kumar 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.94 of 2023 under Section 498-A, 304 IPC, Section 3/4 of Dowry Prohibition Act, PS Bazar Shukul district Amethi.
3. Learned counsel for the applicant has submitted that brother of deceased lodged FIR in which he has mentioned that his sister was married with Devraj prior to two years. The applicant and the inlaws of deceased used to harass the deceased and additional demand of golden chain of 20 gms., a buffalo of good breed and Rs.50,000/- was demanded. He further mentioned in the FIR that deceased was also beaten by them. He has further mentioned in the FIR that on 8.5.2023 , his sister came to his house and told about dowry demand made by inlaws. Then again she had gone back to her Sasural on same date i.e., 8.5.2023. The complainant further made allegation in the FIR that the deceased committed suicide for the reason that additional dowry demand was made by the inlaws.
4. Learned counsel for the applicant has submitted that deceased committed suicide and there is ligature mark which was caused due to hanging and cause of death is asphyxia due to anti mortem hanging. He has further submitted that whatever has happened, that has happened between wife and husband and the applicant is not responsible in an manner in commission of crime and she has not beaten the deceased. He has submitted that the statements of villagers have been recorded by the police and it has come on record that prior to two years, the marriage

of deceased was performed and generally, she used to live in Ahmedabad along with her husband, therefore, there is no question of any harassment from the applicant side. He has further submitted that the applicant is aged about 59 years and being lady, she may be extended benefit of Section 437 CrPC. He has submitted that the applicant has no criminal history and she is in Jail since 12.7.2023.

5. Learned A.G.A. opposed the bail and has submitted that it is a case of dowry death, therefore, the bail application is liable to be rejected.

6. Considering over all facts and circumstances of the case, the argument that the applicant is mother-in-law and deceased committed suicide by hanging, the argument that general allegation of dowry demand is levelled, the argument that the applicant is lady and benefit of Section 437 CrPC may be extended to her, it is a fit case for bail.

7. Let the applicant, Shyam Kala 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 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.

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 :- 21.12.2023

Rajneesh JR-PS)