

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 15437 of 2023

Applicant :- Shiv Dulare Singh

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

Counsel for Applicant :- Pankaj Shukla, Birendra Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Supplementary affidavit filed by learned counsel for the applicant is taken on record.

2. Heard Shri Birendra Pratap Singh, learned counsel for the accused-applicant as well as Shri Awadhesh Narayan Tripathi, learned A.G.A. for the State and perused the record.

3. This bail application has been filed seeking release of the accused/applicant **Shiv Dulare Singh** on bail, who is involved in Case Crime No. 0146 of 2023 under Sections 498A, 304-B, 506 I.P.C and Section 3/4 D.P. Act, Police Station Munshiganj, District Amethi.

4. Learned counsel for the applicant submitted that the First Information Report was lodged by the brother of the deceased, wherein it is mentioned that the complainant was informed by the Police that his sister was dead. The complainant went to the house of his sister and came to know that her body was sent for Post-mortem and her husband and father-in-law were present in the house. It is further alleged that the applicant and her family members used to harass his sister and used to demand additional dowry of Rs. Five Lakh and a bike (Pulsar). Learned counsel for applicant submitted that the sister of the complainant was married to Giri Raj Singh, the son of applicant prior to five years and since it was a love marriage, therefore, there is no question of dowry demand. The applicant had separate living and in support of the same, learned counsel for the applicant has filed Parivar Register which indicates that the deceased and her husband were living separately from the applicant.

5. Learned counsel for the applicant further submitted that the post-mortem report does not indicate any external or internal injury on the body of the deceased except for the ligature mark on the neck. He further submitted that the deceased committed suicide by hanging herself because the relationship between the the deceased and her husband was not cordial. Learned counsel for applicant

further submitted that the applicant is aged about 78 years and is the father-in-law of the deceased and he has submitted that co-accused Shyama Devi, who is the mother-in-law of the deceased has already been granted bail in Criminal Misc. Bail Application No. 15133 of 2023 vide order dated 21.12.2023, as such the applicant is entitled for bail. Learned counsel for applicant submitted that general allegation of dowry demand has been levelled against the applicant and he has been falsely implicated in the present case. He has further stated that the applicant has previous criminal history of one case which has been explained by him in paragraph-2, 3 and 4 of the supplementary affidavit, in which the applicant has been acquitted and he is languishing in jail since 25.10.2023.

6. Learned A.G.A for the State has opposed the prayer of bail of the applicant and has stated that it is a case of dowry death, therefore, the applicant is not entitled for bail and his bail is liable to be rejected.

7. Considering the facts and circumstances of the case, perusing the record, also considering the nature of allegations, arguments advanced by the learned counsel for the parties, the argument that the applicant is the father-in-law of the deceased and general allegation of dowry demand has been levelled against him, the argument that post-mortem report does not indicate any internal or external injury on the person of the deceased except for the ligature mark on the neck, the argument that the deceased committed suicide by hanging herself and the argument that the applicant is an old person of 78 years of age, I find it to be a fit case for grant of bail.

8. Accordingly, the bail application is **allowed**.

9. Let the accused/applicant **Shiv Dulare Singh** involved in above-mentioned case, be released on bail on his furnishing a personal bond with two sureties each in the like amount to the satisfaction of the court concerned subject to 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 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 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.

10. 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 :- 22.12.2023
DiVYa