

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2411 of 2023

Applicant :- Harshit Singh

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

Counsel for Applicant :- Srees Kumar Srivastava, Ashok Kumar

Singh, Rahul Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Shamim Ahmed, J.

Learned counsel for the applicant has filed supplementary affidavit today, which is taken on record.

Counter and rejoinder affidavits have been exchanged between the parties.

Heard Sri Rahul Kumar Singh, learned counsel for the applicant as well as Sri Ashok Kumar Srivastava, learned A.G.A. and perused the record.

The applicant, Harshit Singh, has moved the present bail application seeking bail in Case Crime No. 336 of 2022, under Sections 498-A, 304-B, 323 I.P.C., read with Section 3/4 of Dowry Prohibition Act, Police Station Gangaghat, District Unnao.

Learned counsel for the applicant further submits that in the first information report the complainant has made allegation of demand of additional dowry in the form of two lakhs rupees in cash and motorcycle and on account of non fulfillment thereof causing cruelty and harassment to the deceased. Prior to the lodging of first information report no complaint was ever made regarding demand of additional dowry either soon after the marriage or before the death of the deceased. The allegation of additional demand of dowry against the applicant is false and has only been made with intention to falsely implicate the applicant along with her other family members.

Learned counsel further submits that the applicant is unfortunate husband of the deceased and he has been falsely implicated in the present case afterthought. The F.I.R. was lodged by the complainant, who is father of the deceased, after putting pressure by the relatives. The marriage of the applicant and the deceased was solemnized in the month of November, 2021 as per Hindu rites and rituals and the relation between them were cordial, except some minor nitty-gritty, which generally arises between husband and wife. The learned counsel

further submits that deceased was a short tempered lady and she was not willing to live in the village and she always insists and pressurize her husband to live in the City, and on denial by the son of the applicant the deceased was living under mental stress and frustration and ultimately on the date of incident she committed suicide by hanging herself in the room, which was locked from inside and after breaking the lock the dead-body was brought down.

Learned counsel for the applicant also submits that as per her postmortem report cause of death of the deceased is 'Asphyxia due to ante mortem hanging' and three injuries were found on her person, which are as under:

"(i) ligature mark of size 19.0 c.m. x 2.0 c.m. present over front of neck below chin above thyroid cartilage going below and obliquely interrupted 4.0 c.m. below right ear mark is present 2.0 c.m. below right ear 6.0 c.m. below chin and 6.0 c.m. below right ear. Base of groove is brown hard and parchment like margins abraded on cutting subcutaneous tissue ligature mark is white hard and glistening.

(ii) multiple L.W. present over left distant part of forearm ventral side largest of size 6.0 c.m. x 0.5 c.m. and of smallest size 2.0 c.m. x 0.5 c.m.

(iii) LW of size 0.5 c.m. x 0.2 c.m. inner side of left nostril."

Learned counsel for the applicant submits that the first injury came due to hanging and the second and third injuries were caused while the dead-body was being brought down from the clamp from where she hanged herself.

In support of his argument that deceased committed suicide by hanging herself, the learned counsel for the applicant placed reliance upon the extract of Modi's Medical Jurisprudence, wherein definition of hanging has been described. Learned counsel for the applicant submits that the definition of hanging given in Modi's Jurisprudence and the postmortem report of the deceased are almost identical, thus, it appears a case of committing suicide by hanging and not the murder or strangulation, therefore, applicant may be enlarged on bail by this Court sympathetically.

Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed forth before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been touched upon at length. It has been assured on behalf of

the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. It has also been pointed out that the accused is not having any criminal history, which fact has been explained in para-20 of the affidavit filed in support of the bail application. The applicant is in jail since 14.07.2022 and has already undergone a substantial period of detention, therefore, the bail application of the applicant may also be considered by this Court sympathetically and he should be released on bail.

Learned counsel for the applicant also submits that sister and mother of the applicant, namely Poonam Singh and Mithlesh alias Pappi, have already been granted bail by this court in Criminal Misc. Bail Application Nos. 13163 of 2022 and 13480 of 2022 vide orders dated 16.11.2022 and 29.11.2022, and as in the F.I.R. similar allegations have been levelled against the applicant also regarding the demand of dowry and causing cruelty, thus, his case is not on the worst footing than that of the co-accused, namely Poonam Singh and Mithlesh alias Pappi, who have been granted bail by this court, thus, the bail-application of the present applicant may also be considered by this court sympathetically and he be released on bail.

Learned A.G.A. opposed the prayer for bail and has submitted that deceased died in an unnatural circumstance within one year of her marriage, and the applicant is husband of the deceased, therefore, his prayer for bail may be rejected.

After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence, the period of detention already undergone, the unlikelihood of early conclusion of trial and also in the absence of any convincing material to indicate the possibility of tampering with the evidence and considering the fact that general allegations with regard to demand of dowry and committing cruelty in lieu thereof have been attributed to all the accused persons named in the first information report including the applicant; as per the postmortem report of the deceased cause of death is 'Asphyxia due to ante mortem hanging' and except one ligature mark all around the neck two other minor injuries were found on the person of the deceased which could be caused when the dead body of the deceased was brought down from the clamp from where she hanged herself; as per Modi's Medical Jurisprudence, wherein definition of hanging has been described the postmortem report of the deceased is almost identical, it appears a case of committing suicide by hanging and not the murder or

strangulation; moreover, co-accused, namely Poonam Singh and Mithlesh alias Pappi, charged with similar allegations, have already been granted bail by this court and the case of the applicant is not on the worst footing than that of the co-accused, and further considering the larger mandate of the Article 21 of the Constitution of India and the law laid down by the Hon'ble Apex Court in the cases of Dataram Singh vs. State of UP and another, reported in (2018) 3 SCC 22, this Court is of the view that the applicant may be enlarged on bail.

The prayer for bail is granted. The application is **allowed**.

Let the applicant- **Harshit Singh S/o late Pappu @ Ram Sharan Singh**, involved in Case Crime No. 336 of 2022, under Sections 498-A, 304-B, 323 I.P.C. read with Section 3/4 of Dowry Prohibition Act, Police Station Gangaghat, District Unnao, be released on bail on his executing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned on the following conditions :-

- (1) The applicant will not make any attempt to tamper with the prosecution evidence in any manner whatsoever.
- (2) The applicant will personally appear on each and every date fixed in the court below and his personal presence shall not be exempted unless the court itself deems it fit to do so in the interest of justice.
- (3) The applicant shall cooperate in the trial sincerely without seeking any adjournment.
- (4) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.
- (5) In case, the applicant misuses the liberty of bail during trial, 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 him, in accordance with law, under Section 174-A of the Indian Penal Code.
- (6) The applicant shall remain present, 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.

(7) The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad or certified copy issued from the Registry of the High Court, Allahabad.

(8) The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

It may be observed that in the event of any breach of the aforesaid conditions, the court below shall be at liberty to proceed for the cancellation of applicant's bail.

It is clarified that the observations, if any, made in this order are strictly confined to the disposal of the bail application and must not be construed to have any reflection on the ultimate merits of the case.

(Shamim Ahmed, J.)

Order Date :- 4.7.2024
A.Nigam