

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13194 of 2024

Applicant :- Hareram

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

Counsel for Applicant :- Narendra Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan,J.

1. Heard Sri Narendra Gupta, learned counsel for the applicant, Sri Ravi Srivastava, learned A.G.A. for the State and Sri Sumit Chauhan, learned counsel for the complainant / informant, same is taken on record.

2. It has been contended by the learned counsel for the applicant that the applicant is in jail since 30.9.2024 in Case Crime No. 397 of 2024 u/s 108 BNS, P.S. Laharpur, District Sitapur. It has been submitted that the applicant has been falsely implicated in this case as he has not committed any offence as alleged.

3. Attention has been drawn towards the impugned F.i.R. wherein for the alleged incident dated 6.9.2024 the F.I.R. has been lodged on 8.9.2024 implicating the entire family of the wife of the deceased. As per the prosecution story there was some dispute between the deceased and his wife, therefore, she was residing with her real brother namely, Hareram, the present applicant. The deceased had filed one application u/s 9 of Hindu Marriage Act and was trying to get his wife back from the house of the present applicant. On the fateful day he went to the house of the present applicant to get his wife back to his house but wife did not agree to go with him and the present applicant has not permitted the deceased to take his sister with him. As per the statement of some witnesses the present applicant has told the deceased that he is not keeping his wife properly, therefore, he will not permit her to go with him, on that the deceased threatened that if he will not permit his sister to go with him he will commit suicide. Thereafter he committed suicide.

4. Learned counsel has further submitted that this Court considering the fact that wife of the deceased is in jail with her two and half years daughter, granted bail on

3.12.2024 in Case Crime no. 0397 of 2024 u/s 108 of BNS, 2023, P.S. Laharpur, District Sitapur. He has further submitted that for constituting the offence u/s 306 IPC there must be a positive / overt act of the accused applicant instigating / abetting the deceased to commit suicide and in the present case such ingredients are missing, though the aforesaid aspect may be ascertained / tested during the course of the trial.

5. Learned counsel has stated that being a real brother and after knowing the fact that there is dispute between his sister and his brother-in-law he could have not forcefully sent his sister with his brother-in-law (since deceased). The applicant has no prior criminal history. The charge-sheet has been filed in this case.

6. The learned counsel for the applicant has given an undertaking on behalf of applicant that the applicant shall not misuse the liberty of bail and shall cooperate with the trial proceedings and shall abide by all terms and conditions of bail, if granted.

7. Learned A.G.A. opposed the prayer for bail but could not dispute the aforesaid facts as argued by the learned counsel for the applicant.

8. Without entering into the merits of the case and considering the arguments of learned counsel for the parties, contents and allegations of the F.I.R., the fact that for the alleged incident dated 6.9.2024 the F.I.R. has been lodged on 8.9.2024 without explaining the delay and implicating the entire family of the wife of the deceased, there was some dispute between the deceased and his wife, on the fateful day he went to the house of the present applicant to get his wife back to his house but wife did not agree to go with him and the present applicant has not permitted the deceased to take his sister with him as he was not keeping his wife properly, there was no positive / overt act of the accused applicant instigating / abetting the deceased to commit suicide, the applicant being a real brother and after knowing the fact that there is dispute between his sister and his brother-in-law he could have not forcefully sent his sister with his

brother-in-law (since deceased), the applicant has no prior criminal history, charge-sheet has been filed in this case and the undertaking given on behalf of the applicant that he shall not misuse the liberty of bail and shall cooperate in the trial proceedings, the applicant is entitled to be released on bail in this case.

9. Bail application is **allowed**.

10. Let the applicant **Hareram**, involved in aforesaid case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) The applicant shall file an undertaking to the effect that he / 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 his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him / her under Section 269 of the B.N.S., 2023.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 84 of B.N.S.S., 2023 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 / her in accordance with law, under Section 208 of the B.N.S., 2023.

(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 351 of B.N.S.S., 2023. 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 / her in accordance with law.

Order Date :- 20.12.2024/Om