

Court No. - 64

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Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35443 of 2020

Applicant :- Anmol Rastogi

Opposite Party :- State of U.P.

Counsel for Applicant :- Anand Srivastava, Chandra Bhan Gupta

Counsel for Opposite Party :- G.A., Dharendra Kumar Verma

Hon'ble Rahul Chaturvedi, J.

Heard Sri Chandra Bhan Gupta, learned counsel for the applicant as well as learned A.G.A for the State and perused the record.

Case called out in the revised call.

Non appears on behalf of the complainant to represent the informant.

Despite of time given to the learned AGA to provide counter affidavit and viscera report of the deceased. The Court is not getting sufficient cooperation from the side of the State. This is pathetic state and the Court records its strongest exception of such type of attitude from the State.

It is almost in every case that despite of sufficient time is granted by the Court, learned AGA is cutting sorry figure either by not filing the counter affidavit or viscera report within time. the applicant who is in jail, cannot be left at the mercy of the State/or the prosecutor. Left with no other option, the court is inclined to decide the bail application with the help of counsel for the applicant only.

By means of this application, the applicant, who is husband involved in case crime no.182 of 2020, under Sections 323, 328, 304-B, 498A and 506 IPC and Section 3/4 of the Dowry Prohibition Act, Police Station-Ganj, District-Rampur is seeking enlargement on bail during the trial. The applicant is languishing in jail since 26.05.2020.

Contention raised by the counsel that within three years of marriage on account of additional dowry. The deceased was administered some poisonous substance by which she lost her life.

Learned counsel for the applicant has drawn the attention of the Court to the Annexure-8 i.e. statement of of Dr. Manas Singhal, the attending doctor who treated the deceased. In his statement, he has stated that the deceased was admitted in hospital on 25.05.2020 in an unconscious condition, her blood pressure was 92/185 and other vital parameters are on the higher side. The doctor opined that she was suffered from serious infection in her body and thereafter she was referred to higher centre for better treatment. The doctor did not give any candid reply to the fact that whether she was administered any poisonous substance or not? More over three witnesses have been examined in the matter all the witnessed have turned hostile.

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

Taking into account that the witnesses have been turned hostile, keeping in view the nature of the offence, evidence, complicity of the accused and submissions of learned counsel for the parties, I am of the view that the applicant has made out a case for bail.

Let the **applicant-Anmol Rastogi**, be released on bail in the aforesaid case crime number on 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/APPLICANTS SHALL FILE AN UNDERTAKING TO THE EFFECT THAT HE/SHE/THEY SHALL NOT SEEK ANY ADJOURNMENT ON THE DATE FIXED FOR EVIDENCE WHEN THE WITNESSES IS/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/APPLICANTS SHALL REMAIN PRESENT BEFORE THE TRIAL COURT ON EACH DATE FIXED, EITHER PERSONALLY OR THROUGH HIS/HER/THEIR COUNSEL. IN CASE OF HER ABSENCE, WITHOUT SUFFICIENT CAUSE, THE TRIAL COURT MAY PROCEED AGAINST HIS/HER/THEIR UNDER SECTION 229-A IPC.

(iii) IN CASE, THE APPLICANT/APPLICANTS MISUSES THE LIBERTY OF BAIL DURING TRIAL AND IN ORDER TO SECURE HER PRESENCE PROCLAMATION UNDER SECTION 82 CR.P.C., MAY BE ISSUED AND IF APPLICANT/APPLICANTS FAILS TO APPEAR BEFORE THE COURT ON THE DATE FIXED IN SUCH PROCLAMATION, THEN, THE TRIAL COURT SHALL INITIATE PROCEEDINGS AGAINST HIS/HER/THEIR, IN ACCORDANCE WITH LAW, UNDER SECTION 174-A IPC.

(iv) THE APPLICANT/APPLICANTS SHALL REMAIN PRESENT, IN PERSON, BEFORE THE TRIAL COURT ON DATES FIXED FOR (1) OPENING OF THE CASE, (2) FRAMING OF CHARGE AND (3) RECORDING OF STATEMENT UNDER SECTION 313 CR.P.C. IF IN THE OPINION OF THE TRIAL COURT ABSENCE OF THE APPLICANT/APPLICANTS IS/ARE 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 HIS/HER/THEIR IN ACCORDANCE WITH LAW.

(v) THE TRIAL COURT MAY MAKE ALL POSSIBLE EFFORTS/ENDEAVOUR AND TRY TO CONCLUDE THE TRIAL WITHIN A PERIOD OF ONE YEAR AFTER THE RELEASE OF THE APPLICANT/APPLICANTS.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Since the bail application has been decided under extra-ordinary circumstances, thus in the interest of justice following additional

conditions are being imposed just to facilitate the applicant/applicants to be released on bail forthwith. Needless to mention that these additional conditions are imposed to cope with emergent condition-:

1. The applicant/applicants shall be enlarged on bail on execution of personal bond without sureties till normal functioning of the courts is/are restored. The accused will furnish sureties to the satisfaction of the court below within a month after normal functioning of the courts are restored.
2. The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad.
3. The computer generated copy of such order shall be self attested by the counsel of the party concerned.
4. 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.

At last, let the copy of this order be placed before concerned Additional Advocate General, as well as learned Government Advocate so that the Court must get a proper and befitting assistance from the learned AGA in future.

Order Date :- 18.2.2021

Abhishek Sri.