

In Chamber

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 154 of 2020

Applicant :- Utkarsh Agrawal

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajrshi Gupta, Dileep Kumar (Senior Adv.), Ishan Deo Giri, Rizwan Ahamad

Counsel for Opposite Party :- G.A., Praveen Kumar Singh, Syed Imran Ibrahim

Hon'ble Saumitra Dayal Singh, J.

1. The matter has been heard through video conferencing.
2. Heard Sri Dileep Kumar, learned Senior Advocate, assisted by Sri Ishan Deo Giri, learned counsel for the applicant; Sri Vikas Goswami, learned AGA for the State and Sri Manish Tiwary, learned Senior Advocate, assisted by Sri Syed Imran Ibrahim, learned counsel for the informant.
3. The instant bail application has been filed on behalf of the applicant - **Utkarsh Agrawal** with a prayer to release him on bail in **Case Crime No. 69 of 2019, under Sections- 498-A, 304-B, 506 IPC and Section 3/4 Dowry Prohibition Act, Police Station - Kohna, District - Kanpur Nagar**, during pendency of trial.
4. Having heard learned counsel for the parties, at present:
 - (i) against FIR lodged on 6.7.2019, the applicant is in confinement since 8.7.2019;
 - (ii) the applicant claims to have cooperated in the investigation;
 - (iii) the applicant pleads no criminal history;
 - (iv) charge-sheet has already been submitted yet there is no hope of early conclusion of the trial;
 - (v) on *prima facie* basis, only for purpose of grant of bail, learned senior counsel for the applicant would submit that the death of the applicant's wife was a suicidal occurrence in reaction to petty dispute/argument that had arisen between the deceased and her mother-in-law, well after the applicant and his father had left for work. In anguish, the deceased jumped out of the window of their third floor apartment and succumbed to injuries. As to the allegation of dowry and cruelty, it has been

submitted that no dowry had ever been demanded or given. In fact, pure commercial transaction had taken place between the applicant and his father and their business concern on one side and the father of the deceased and her brother-in-law on the other. Though money that had been loaned out by the applicant's family to the father of the deceased and his business concern had been repaid there was a default in repayment of loan of Rs. 60 lakhs claimed to have been disbursed to brother-in-law of the deceased. Since repayment of that money was being pressed, the same has been used as a pretext to create a false case of dowry. Therefore, presumption under Section 113-B of Indian Evidence Act, 1872, read with Section 304-B IPC would not apply. He has also referred to the statement of the eye-witness, who was a domestic help working at the applicant's apartment. She is alleged to have stated that the deceased jumped out of the window of her own. Lastly, it has been submitted that the co-accused i.e. father and mother of the present applicant have already been enlarged on bail by this Court. Thus, the applicant may also be granted bail at parity.

5. The bail application of the applicant has been vehemently opposed by learned AGA and learned Senior Advocate for the informant, who would submit that the statement of the eye-witness has to be read in entirety and, according to her version, cruelty preceded the occurrence. Referring to Section 113-B of Indian Evidence Act, it has been further submitted that the burden would rest solely on the applicant and the other accused to lead evidence and to rebut it at the trial. As to the demand of dowry, it has been submitted that the commercial transactions would have to be proved at the trial, however, at the moment, there is credible evidence to proceed against the applicant for demand of dowry. The incident itself is claimed to have been preceded by a number of earlier incidents wherein the deceased had been forced to go back to her parental home on account of cruelty and dowry. She is claimed to have returned to her matrimonial home upon certain promises made by the applicant and his family.

6. Having heard learned counsel for the parties and having perused the record, while no conclusion of fact is required to be drawn at this stage and none is indicated by this order, all fact issues would remain to be tested on the basis of evidence that may be led at the trial. The applicant being husband of the deceased, at present, in the state of the case-diary, as has been relied by the parties and as noted above, the applicant is not entitled to bail, at this stage.

7. Accordingly, the bail application is **rejected**. However, rejection of the bail application may never result in indefinite

curtailment of the liberty of the applicant. In normal circumstances, the Court would have fixed short time frame for conclusion of trial itself, however, on account of the prevailing lockdown arising from the pandemic Covid-19, such timeline is not being provided by this order. At the same time, immediately upon restoration of the normalcy, learned trial court would take up the matter with utmost urgency and seek to conduct and conclude the trial, as expeditiously as possible, without allowing for any undue or long adjournment.

8. Needless to add, if for some reason, the trial remained pending for a period of one year, despite full cooperation by the applicant, he will be at liberty to file a fresh bail application.

Order Date :- 30.5.2020

Prakhar