

**Court No. - 38**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 33589 of 2019

**Applicant :-** Bharat Singh

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Sushil Kumar Pandey

**Counsel for Opposite Party :-** G.A., Babita Upadhyay

**Hon'ble Saumitra Dayal Singh, J.**

1. Heard Shri Sushil Kumar Pandey, learned counsel for the applicant, learned AGA for the State and also perused the material placed on record.

2. The instant bail application has been filed on behalf of the applicant - **Bharat Singh**, with a prayer to release him on bail in **Case Crime No. 198 of 2018, under Sections 498-A, 323, 328, 304-B IPC and 3/4 Dowry Prohibition Act, Police Station - Madhotanda, District - Pilibhit** during pendency of trial.

3. Having heard learned counsel for the parties, at present:

(i) the applicant is accused of offence under Sections 498-A, 323, 328, 304-B IPC and 3/4 Dowry Prohibition Act;

(ii) against FIR lodged on 02.06.2018, the applicant is in confinement since 13.06.2018;

(iii) the applicant claims to have cooperated in the investigation. In any case, he is not shown to have unduly evaded arrest;

(iv) the applicant has no criminal history;

(v) charge sheet has been submitted;

(vi) on prima facie basis, it has been submitted by learned counsel for the applicant that a pure suicidal occurrence has been given the colour of a homicide only to cause harassment to the applicant who is the husband of the deceased. The deceased had consumed poison for which the applicant had got her admitted to a private hospital where her parents also visited her. Upon being referred to a higher medical centre, the applicant was trying to take the deceased there. On way, her parents forcibly took her away and kept her at their home where her condition deteriorated and subsequently she died. There is no dying declaration and there is no independent witness of the occurrence, as alleged. During investigation, the allegations made against other family members of the applicant were found false and they have not been charge sheeted. Thus, the applicant

claims to have been falsely implicated. He has also relied on an application move to the Superintendent of Police, Pilibhit dated 31.05.2018 alleging the foul practiced by the parents of the deceased and others in preventing the applicant from taking the deceased to a higher medical centre.

(vii) the bail application has been vehemently opposed by learned AGA. He submits that the applicant is the husband of the deceased. The marriage between the parties was not more two years old and there are allegations of demand of dowry and cruelty practised prior to the occurrence. Therefore, the presumption in law exists against the applicant and it will be for him to lead evidence and establish otherwise. The application dated 31.5.2018 is not part of the case diary and, at present, the FIR allegations have been duly supported by the case diary material.

4. Having heard learned counsel for the parties and having perused the record, keeping in mind the fact that the applicant is the husband of the deceased and the occurrence took place within two years of the marriage which is preceded by allegations of demand of dowry etc, as supported by statement recorded under Section 161 CrPC, there is no room to exercise any discretion in favour of the applicant. The bail application is **rejected**.

5. However, rejection of the bail to the applicant may not indefinitely detain him in confinement. Therefore, it is expected that the trial court may make all attempts for expeditious conclusion of the trial keeping in mind the present circumstances.

**Order Date :- 30.4.2021**

AHA