

Dharmendra vs State Of U.P. on 1 May, 2025

Author: Siddharth

Bench: Siddharth

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:69368

Court No. - 47

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35128 of 2024

Applicant :- Dharmendra

Opposite Party :- State of U.P.

Counsel for Applicant :- Manish Kumar Kashyap,Ravi Shankar Tripathi,Shyam Babu,V.P. Singh

Counsel for Opposite Party :- Balbir Singh,G.A.

Hon'ble Siddharth,J.

Heard learned counsel for the applicant; Shri Balbir Singh, learned counsel for the informant and learned A.G.A for the State.

There are allegations against the applicant and other co-accused of committing offence of murder of the deceased because of unfulfilled demand of dowry of Rs. 2 lac and one car. The marriage of the deceased with co-accused, Dharmveer took place on 3.6.2013. The incident took place on 5.5.2024. After about 11 years of the marriage the allegation of demand of dowry does not appear to be credible. Deceased had given birth of two daughters, therefore family members of her matrimonial home used to taunt her. Her husband had illicit relationship with co-accused, Neelam.

Learned counsel for the applicant submits that in the dying declaration of the deceased no allegation has been made against any person of putting her on fire. Deceased had committed suicide because of taunting given by family members of her matrimonial house. Applicant is elder brother-in-law (Jeth) of the deceased. Applicant is handicapped of both legs. He has been falsely implicated in this case. The applicant is in jail since 15.5.2024 and has no criminal history to his credit.

Learned counsel for the informant has submitted that in the statement of the victim recorded under section 161 Cr.P.C. she has made allegation against the accused persons of putting her on fire. Husband of the deceased had illicit relationship with co-accused, Neelam, therefore they put her on fire. Therefore applicant is not entitled to be enlarged on bail. On the other hand learned A.G.A has opposed the prayer for bail.

After hearing the rival contentions, this court finds that in the dying declaration of the deceased no allegation has been made against the accused person. Her statement under section 161 Cr.P.C. cannot be override her dying declaration. Keeping in view the nature of the offence, evidence, complicity of the accused, submissions of the learned counsel for the parties noted above, finding force in the submissions made by the learned counsel for the applicant, larger mandate of the Article 21 of the Constitution of India, recent judgment dated 11.07.2022 of the Apex Court in the case of Manish Sisodia vs. Directorate of Enforcement, 2024 LawSuit (SC) 677. and considering 5-6 times overcrowding in jails over and above their capacity by the under trials and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

Let the applicant, Dharmendra, involved in Case Crime No.291 of 2024, under Section-498-A,302 IPC, Police Station- Civil Line, District- Budaun, 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 subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) The applicant shall file an undertaking to the effect that he 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.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) In case the applicant misuses the liberty of bail during trial and in order to secure his 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.

(v) 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 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.

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

Order Date :- 1.5.2025 Atul kr. sri.