

(2024) 01 RAJ CK 0022
In the Rajasthan High Court

Case No : Criminal Miscellaneous Bail Application No. 14985 Of 2023

Ganga Singh

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 04-01-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 161, 439
Indian Penal Code, 1860 — Section 120B, 302, 306, 498A

Citation : (2024) 01 RAJ CK 0022

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Dilip Singh Udawat, Abhishek Purohit

Final Decision : Allowed

Judgement

Dinesh Mehta, J

1. This application for bail has been filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') in connection with FIR No.60/2022, registered at Police Station Sojat City, District Pali for the offences under Sections 498-A, 302 and 120-B of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC'). A charge-sheet has been filed for the offences under Sections 498-A and 306 of the IPC.

2. Mr. Udawat, learned counsel for the applicant submitted that the prosecution has wrongly implicated the present applicant for abetting his wife to commit suicide.

3. While inviting Court's attention towards a written information submitted by Prem Singh (brother of the deceased) to SHO, Sojat City, learned counsel argued that in such complaint (which has been registered as FIR), he had neither alleged any foul play or suspicion against the present applicant nor has he alleged any harassment for dowry or otherwise meted out to his wife.

4. Learned counsel submitted that at the time of recording statement under Section 161 of the Cr.P.C., Prem Singh has changed his version and has leveled allegation of harassment upon the present applicant.

5. Learned counsel took the Court through statements of all relevant witnesses, including Sarita (sister of the deceased) and Kalu Singh (neighbour) and submitted that the two witnesses have stated that there were stray instances of quarrel between the present applicant and the deceased, but the same cannot be said to be a reason to implicate the present applicant under Section 306 of the IPC, as none of the witnesses have attributed such conduct to the applicant so as to drive her to commit suicide.

6. Learned counsel took the Court through statement of other neighbours and submitted that they do not support the stand of the prosecution.

7. Learned counsel lastly invited Court's attention towards the documents placed along with the present bail application and submitted that the present applicant had been taking his wife to various doctors for her treatment and had never harassed her for her infertility. He added that owing to her own frustration of inability to procreate, she committed suicide.

8. Mr. Abhishek Purohit, learned Public Prosecutor though opposed the bail application, but was neither in a position to satisfy the Court about the applicant's active or direct role nor could he pinpoint any triggering moment which constrained the deceased to commit suicide. He, however, argued that the applicant did not inform the family members of the deceased about her death in time and therefore, no indulgence be granted.

9. Heard learned counsel for the parties and perused the material available on record.

10. On appraisal of overall material on record, what transpires is that there were some stray instances of quarrel between the present applicant and the deceased, that too on account of the fact that the deceased was unable to conceive.

11. In the opinion of this Court, the fact that the applicant has taken the deceased (his wife) to various hospitals for her treatment coupled with the fact that it was the applicant who took the deceased to the Primary Health Centre, Sojat, Community Health Centre, Sojat and then to Jodhpur is suggestive of the fact that there was no immediate quarrel between the present applicant and the deceased due to which she had to take extreme step of finishing her own life, particularly when, she died of poison (insecticide).

12. The applicant is behind the bars since 02.11.2023 and the charge-sheet has been filed. In such circumstances, keeping the applicant behind the bars for indefinite period is not warranted, particularly when the case of the prosecution is not based on sound evidence.

13. Consequently, the bail application filed under Section 439 of the Cr.P.C. is

allowed. The applicant - Ganga Singh S/o Shri Bhanwar Singh arrested in connection with FIR No.60/2022, registered at Police Station Sojat City, District Pali shall be released on bail on his furnishing personal bond in the sum of Rs.50,000/- and two sureties of Rs.25,000/- each to the satisfaction of the trial Court.

14. Applicant shall be required to appear before that Court on all dates of hearing and as and when called upon to do so.

15. Needless to mention that the above observations made by this Court are on the basis of material so far produced before the Court. These are only prima-facie observations and the same shall however, not come in the way of the trial Court to take independent view of the matter, based on ocular and oral evidence, while finally deciding the case.