

**Court No. - 64**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 31036 of 2023

**Applicant :-** Kharpattu And Another

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

**Counsel for Applicant :-** Vinay Bhushan Upadhyay, Santosh Kumar Dubey

**Counsel for Opposite Party :-** G.A.

**Hon'ble Siddharth, J.**

Counter affidavit filed today is taken on record.

Heard learned counsel for the applicants as well as the learned AGA for the State and perused the material placed on record.

The instant bail application has been filed on behalf of the applicants, **Kharpattu and Kumari wife of Kharpattu**, with a prayer to release their on bail in **Case Crime No. 111 of 2023, under Sections 498-A, 304-B IPC and Section 3/4 D.P. Act, Police Station Robertsganj, District- Sonbhadra**, during pendency of trial.

There is allegation against the applicants of causing dowry death of their daughter-in-law.

Learned counsel for the applicants has submitted that deceased committed suicide by way of hanging. Earlier her elder sister was married to the son of the applicants and after she died, son of the applicants was married to the deceased. It appears that deceased was not happy with her marriage with the son of the applicants. Therefore, she committed suicide. She was also pregnant on the time of incident. The applicants have been falsely implicated in this case due to some ulterior motives. The applicants have no criminal history to their credits and they are languishing in jail since 4.4.2023. In case, the applicants are released on bail, they will not misuse the liberty of bail.

Per contra learned A.G.A. has opposed the prayer for bail of the applicants by contending that the innocence of the applicants cannot be adjudged at pre trial stage, therefore, they do not deserve any indulgence. In case the applicants are released on bail they will again indulge in similar activities and will misuse the liberty of bail.

Having considered the submissions of the parties noted above, larger mandate of the Article 21 of the Constitution of India, ***Satendra Kumar Antil Vs. C.B.I. & Another, passed in S.L.P.(Crl.) No. 5191 of 2021, judgement dated 11.7.2022 and considering 5-6 times overcrowding in jails over and above their capacity by under trials*** and without expressing any opinion on the merits of the case, let the applicants involved in the aforesaid crime be released on bail on their furnishing a personal bond and two sureties each in the like

amount to the satisfaction of the court concerned with the following conditions that :-

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

(ii) The applicants shall file an undertaking to the effect that they 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 applicants shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of their absence, without sufficient cause, the Trial Court may proceed against their under Section 229-A of the Indian Penal Code.

(iv) In case the applicants misuse the liberty of bail during trial and in order to secure their presence, proclamation under Section 82 Cr.P.C. is issued and the applicants fail to appear before the Court on the date fixed in such proclamation then the Trial Court shall initiate proceedings against their in accordance with law under Section 174-A of the Indian Penal Code.

(v) The applicants 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 applicants 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 their in accordance with law.

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

Identity and residence proof of the applicants and sureties be verified by the court concerned before the bonds are accepted.

**Order Date :- 9.11.2023**  
Ruchi Agrahari