

Neutral Citation No. - 2023:AHC:215077

RESERVED ON 31.10.2023

DELIVERED ON 7.11.2023

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35991 of 2023

Applicant :- Monu @ Videsh

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashutosh Singh, Sr. Advocate

Counsel for Opposite Party :- G.A., Pramod Shukla

Hon'ble Siddharth, J.

Heard Shri V.M. Zaidi, learned Senior Counsel assisted by Shri Ashutosh Singh learned counsel for the applicant; Shri Pramod Shukla, learned counsel for the informant 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 applicant, Monu @ Videsh, with a prayer to release him on bail in **Case Crime No. 462 of 2022, under Sections 498-A, 504, 506, 323, 304-B IPC, and section 3/4 D.P. Act Police Station Khekra, District- Baghpat,** during pendency of trial.

There is allegation in the First Information Report that informant has got his daughter married to the applicant on 1.3.2020. After her marriage demand of Rs. 5 lakhs was further made. On account of the same deceased was subjected to harassment and torture. On 15.10.2022, informant went to her matrimonial home and demand of Rs. 5 lakhs was made from him before his daughter.

On 16.10.2022 at about 2.45 P.M. he came to know that applicant and co-accused caused death of his daughter.

Learned counsel for the applicant has submitted that it is case of false implication. Deceased died on account of strangulation leaving behind suicide note but there is no conclusive report regarding the veracity of suicide note. He has further submitted that co-accused, Smt. Vineeta and Vikas, have been enlarged on bail by this court. Learned counsel for the applicant has submitted that in the Modi on Medical Jurisprudence and Toxicology 25th edition the difference between hanging and strangulation has been considered . He has submitted that in the postmortem report of the deceased although doctor has recorded the finding that the deceased was subjected to strangulation but features of hanging were found more than of stragulation. He has further submitted that mere fracture of hyoid bone can not be attributed to commission of offence of strangulation. He has relied upon on article written by Dr. Shrabana Kumar Naik and Dr. D.Y. Patil and has submitted that where fracture of hyoid bone is found in case of hanging its ante-mortem character and site and at the same time consideration of all the factors responsible for it should be considered. Opinion in haste shall be avoided.

Learned counsel for the informant has vehemently has opposed the bail application and submitted that it is a clear case of strangulation and since applicant was

residing with deceased being her husband, it is for him to explain how deceased died due to strangulation.

Learned AGA has also vehemently opposed the prayer for bail of the applicant.

After hearing the rival contentions, this court finds difference between hanging and strangulation has been considered by the Modi on Medical jurisprudence and Toxicology, 25th edition as follows:-

No.	Hanging	Strangulation
1.	Most suicidal	Mostly homicidal
2.	Face-Usual pale and rare petechiae .	Face-Congested, livid and marked with petechiae
3.	Saliva-Dribbling out of mouth down on the chin and chest.	Saliva-No such dribbling
4.	Neck-Stretched and elongated in fresh bodies. .	Neck-Not so
5.	External signs of asphyxia usually not well marked. .	External signs of asphyxia, very well marked (minimal if death due to vasovagal and carotid sinus effect
6.	Ligature mark-Oblique non-continuous placed high up in the neck between the chin and the larynx, the base of groove or furrow being hard, yellow and parchment-like.	Ligature mark - Horizontal or transverse continuous, round the neck, low down in the neck below the thyroid, the base of the groove or furrow being soft and reddish.
7.	Abrasions and ecchymoses round about the edges of the ligature mark, rare.	Abrasions and ecchymoses round about the edges of the ligature mark, common.
8.	Subcutaneous tissues Under the mark - White, hard and glistening.	Subcutaneous tissues under the mark- Ecchymosed.
9.	Injury to the muscles of neck- Rare.	Injury to the muscles of neck-common.

10.	Carotid arteries, internal coats ruptured in	Carotid arteries, internal coats ordinarily ruptured.
11.	Fracture of the larynx and trachea-Very rare and and may be found that too in judicial hanging.	Fracture of the larynx trachea and hyoid bone.
12	Fracture-dislocation of the the cervical vertebrae - Common in judicial hanging.	Fracture-dislocation of the cervical vertebrae-Rare.
13	Scratches, abrasions and bruises on the face, neck and other parts of the body- Usually not present.	Scratches, abrasions fingernail marks and bruises on the face, neck and other parts of the body- Usually present
14	No evidence of sexual assault.	No evidence of sexual assault
15Emphysematous bullae on surface of the lungs - Not present.		Emphysematous bullae on the surface of the lungs May be Present.

After considering the above difference between hanging and strangulation, this court has gone to the postmoretm report of the deceased. In the postmortem report of the deceased no dribbling of saliva has been noted.In the postmortem report position of the face of the deceased has not been noted. However neck of the deceased was also not found to be stretched and elongated. Modi has noted that in case of strangulation stretching of neck is found. The neck of the deceased was found to be congested.Her trachea was also found to be congested and hyoid bone was also congested .Ligature mark was bi- lateral and not oblique .The ligature mark is not continues, in case of hanging. The reliance on the article of Dr. Shrabana Kumar Naik and Dr. D.Y. Patil by learned Senior Counsel is also no help. In the aforesaid article the expert has founded

in the case of hanging the fracture of hyoid bone is almost nil or rare..The cause of increasing incidence of hyoid bone fracture after the age of 40 years can be concluded only after taking larger numbers of such cases, which need further continuous study in this regard. There may be other factor responsible which should be considered.

This court does not finds any good ground for granting bail to the applicant at this stage.

The bail application is accordingly rejected.

The court below is directed to conclude the trial against the applicant, as expeditiously as possible, preferably within a period of one year from the date of production of certified copy of this order.

Order Date :- 7.11.2023

Atul kr. sri.