

Neutral Citation No. - 2023:AHC:203897

Reserved On:- 16.10.2023

Delivered On:- 26.10.2023

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42457 of 2023

Applicant :- Bittu Gond @ Kesarinandan

Opposite Party :- State of U.P.

Counsel for Applicant :- Girja Shanker Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth, J.

1. Heard Ms. Pratiksha Rai, holding brief of Shri Girja Shanker Mishra, learned counsel for the applicant and Shri C.L. Singh, A.G.A-1 for the State.
2. There is allegation against the applicant of causing dowry death of his wife.
3. Learned counsel for the applicant has submitted that it is not a case of dowry death rather the deceased committed suicide by way of hanging since she was unable to adjust with the applicant and other family members of her matrimonial home. The applicant was working outside as labourer and when he came to his house on account of some quarrel with the applicant she committed suicide. He has submitted that the applicant is too poor and the alleged demand in the FIR is absolutely false. The applicant is in jail since 09.07.2022 and has no criminal history to his credit.
4. Learned A.G.A has also opposed the submission made by counsel for the applicant and has pointed out to the injury report of the deceased which shows the following two injuries :-

(i) Ligature mark is in front of neck below the chin above thyroid. Ligature mark is (18cm x 1.5cm) 3cm – below to left ear, ligature mark is absent upto gap 13cm from right ear pinna and whole gap of ligature mark absent is 41cm (right mandible to left back of neck). The ligature mark is going upward. Base of groove is brown parchment like margin abraded subcutaneous tissue underneath is white hard and glistening.

(ii) After opening of scalp, a traumatic swelling in area of (13cm x 6cm) on left temporo occipital region. After opening of skull bone sub dural and intra cerebral haematoma present.

Note:- Skin peeled up at places and multiple blisters present.

5. He has submitted that the first injury appears to have caused death of deceased by way of asphyxia as a result of hanging but the second injury is the head injury which has not been explained by the counsel for applicant.

6. Learned counsel for the applicant has stated that the injury on the head is not external, it is countercoup brain injury suffered by the deceased on account of injury no. 1 on her left side of temporo parietal region. The injury was discovered by the medical officer only after opening of scalp. The traumatic swelling was found inside haematoma was found.

7. Counsel for the applicant also submits that on account of injury no. 1 suffered by the deceased, countercoup injury no. 2 has occurred. She has submitted that the second injury is not independent injury but countercoup injury of injury no. 1 and hence the applicant is entitled to grant of bail.

8. Learned A.G.A has opposed the bail application of the applicant.

9. After hearing the rival submissions, this court finds that in the injury no. 2, the medical officer has noted subdural and intracerebral haematomas inside the skull, left temporo occipital region of the deceased. The injury no. 1 is a ligature mark found on the neck of the deceased with a gap of 13 cm. There is no injury on the right side of the head of the deceased which may indicate that countrecoup brain injury was suffered by the deceased on left side of her temporal parietal region. Moreover the doctor has found epidural haemorrhage and sub-dural haemorrhage. In **Modi on Medical Jurisprudence and Toxicology**, the Epidural (extradural) Haemorrhage and Subdural Haemorrhage have been defined as follows:-

(i) Epidural (Extradural) Haemorrhage :- It is associated with linear fracture that crosses the grooves of the meningeal vessels on the inner surface of the skull. Middle meningeal artery or vein or rupture of both is involved and temporoparietal area is more affected. Other sources of bleeding are emissary veins and dural sinuses, primarily the sagittal and lateral, which coincides with midline depressed fracture of the crown of the skull. Haemorrhage from diploic venous channels and lakes may also occur.

(ii) Subdural Haemorrhage :- Subdural haemorrhage is defined as extravasated blood between dura and subarachnoid. It is caused by the tearing of the large veins entering the superior longitudinal sinus. Less frequently, retrograde escape of blood from intracerebral haemorrhage also causes subdural haemorrhage. Venous bleeding in subdural haemorrhage is caused by the tears of veins that cross the zone between arachnoid and dura (communicating or bridging veins). The locations where they occur are lateral frontal region, the apex of temporal lobe, and the sub temporal region.

10. A perusal of both the definition shows that the epidural haemorrhage is associated with linear fracture. Only if the deceased was hit by some object on a head such an injury would have been caused. Further, there is no explanation as to how the skin of the deceased was peeled up at places and multiple blisters were present on her body. In the textbook of [Medical](#)

Jurisprudence and Toxicology, the Forensic Medicine and Toxicology by B.V. Subrahmanyam, a countrecoup injury has been defined as follows :-

“ A countrecoup injury (contre = opposite; coup = blow) is one which is situated on the contralateral side of the area of impact. It is sustained in falls and traffic injuries when a moving head decelerates suddenly by hitting a hard surface. As for example, when a person falls upon the back of his head striking the ground with his occiput, he may sustain brain injury at the site of impact, that is, at the occipital lobes (coup injury), and a more pronounced injury to the frontal lobes. The latter is known as Countrecoup injury. It can occur only when the head is free to move. It is due to sudden deceleration of the moving head, causing linear and (more harmful) rotational strains to the brain. Such injury occurs most frequently in the temporal poles, frontal poles, and orbital surfaces of frontal lobes. In temporal impact, the countrecoup damage may not be on the contralateral hemisphere but on the opposite side of the ipsilateral hemisphere from impact against the falx cerebri.

In short, with blows, the brain shows much larger contusions underlying the area of impact (coup) than on the site opposite to impact (countrecoup). The reverse is true in cases of head injuries caused by falls in which the countrecoup injuries, usually located in relatively inaccessible portions, are larger than the coup contusions. Thus, it is possible to conclude, on the basis of localisation of craniocerebral injuries, if they resulted from a fall or from blows. Sometimes, the location of injury is neither beneath nor fully opposite the point of impact. It is situated in a position between coup and countrecoup contusions. It is known as intermediate coup contusion and is usually sustained when the moving head strikes a hard surface. Such a lesion can mimic spontaneous intracerebral haemorrhage arising in deep cerebral parenchyma. Brainstem contusions can be regarded as an example of this type of injury. Intermediate contusions in the hemispheres or brainstem are commonly produced in injury situations where the moving head impacts at the vertex.”

11. After going through the aforesaid definitions of injuries, this Court finds that injury no. 2 cannot occur because of hanging. It can only be suffered due to fall and drastic injuries suffered after hitting of head of deceased against a hard surface. Such an injury can only occur when the

head is free to move. In the present case, the injury no. 1 indicates that the head of the deceased was not able to move since it is a case of asphyxia caused by hanging. Therefore, the injury no. 2 cannot be countrecoup injury suffered by deceased.

12. Expressing all appreciation for the counsel for the applicant, who has tried her best to assist the court, this court is not inclined to enlarge the applicant on bail at this stage.

13. The bail application of the applicant is accordingly, rejected.

14. Trial court is directed to conclude the trial of the applicant as expeditiously as possible, preferably within a period of six months.

Order Date :- 26.10.2023

Rohit