

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49004 of 2023

Applicant :- Jaypatti Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Shri Prakash Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. List revised.
2. Heard Sri Shriprakash Dwivedi, learned counsel for the applicant and Sri Ram Prakash Shukla, learned counsel for the State and perused the record.
3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Jaypatti Devi, seeking enlargement on bail during trial in connection with Case Crime No. 0051 of 2023, under sections 498A, 304B I.P.C. and 3/4 of Dowry Prohibition Act, Police Station Haliya, District Mirzapur.
4. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the applicant is the mother-in-law of the deceased. The marriage of the deceased Rani with son of the applicant (Dharamraj Pal) was solemnized on 02.05.2022. The applicant was living separately from the deceased and her husband. It is argued that general and omnibus allegations have been made in the FIR against the applicant and her family members. It is further argued that although the cause of death is asphyxia due to ante-mortem hanging but the applicant is not involved in the same as she was living separately. Charge sheet in the matter has been submitted. The story regarding demand of dowry has seen the light of the day for the first time when the FIR has been lodged. It is argued that Dharamraj Pal the husband of the deceased is not an accused in the matter. It has also been pointed out that the applicant is not having any criminal history as stated in para 26 of the affidavit and is in jail since 16.05.2023. The applicant is a lady and is entitled to benefit of section 437 Cr.P.C.
5. Per contra, learned counsel for the State opposed the prayer for

bail.

6. After having heard learned counsels for the parties and perusing the records, it is evident that the applicant is the mother-in-law of the deceased. The cause of death is asphyxia as a result of ante mortem hanging. No other bodily injury has been found on the body of the deceased except for a ligature mark. The husband of the deceased is not an accused in the matter.

7. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

8. Let the applicant- **Jaypatti Devi**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that she shall not seek any adjournment on the date 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.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure her presence proclamation under section 82 Cr.P.C., may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against her, in accordance with law, under section 174-A I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) 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 her in accordance with law and the trial court may proceed against her under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

9. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

10. The bail application is allowed.

Order Date :- 17.11.2023

K.K. Maurya

(Samit Gopal,J.)