

Court No. - 8

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7116 of 2023

Applicant :- Durgesh Verma

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Civil Secrett. Lko.

Counsel for Applicant :- Arun Kumar Tewari, Prabhat Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh, J.

1. Heard learned counsel appearing for the accused-applicant and Sri Ashwini Kumar Singh, learned A.G.A. for the State.
2. This is second bail application which has been filed seeking bail in FIR No.294 of 2021 under Sections 498A, 304B, 302, 504 IPC, 3/4 Dowry Prohibition Act, Police Station Mankapur, District Gonda.
3. First bail application has been rejected by this Court vide order dated 21.11.2022 passed in Bail No.6537 of 2022 by following order:-

"1. After filing the bail application, learned counsel for the accused-applicant has been seeking adjournments in the case instead of arguing the case on merit. On 23.8.2022, on the request of learned counsel for the accused-applicant, the case was adjourned to be listed on 26.9.2022. On 4.11.2022 again when the bail application was listed, learned counsel for the accused-applicant sought adjournment and this Court directed the case to be listed after two weeks peremptorily and thus, the case is listed today peremptorily.

2. Despite the case is listed today peremptorily, learned counsel for the accused-applicant has again sought adjournment on the ground of his ill health.

3. Considering the fact that the case is listed peremptorily today, the request of learned counsel for the accused-applicant cannot be accommodated and thus, this bail application is being decided on merit with the assistance of Sri Rao Narendra Singh, learned AGA.

4. The present application under Section 439 Cr.P.C. has been filed seeking bail in FIR/ Case Crime No.294 of 2021, under Sections 498-A, 304-B, 302 and 504 IPC and Section 3/4 of Dowry Prohibition Act, Police Station Mankapur, District Gonda.

5. Accused-applicant is the husband of the husband of the deceased Kanti Devi. Marriage between the accused-applicant and the deceased took place on 20.6.2018. It is alleged that the accused-applicant and his family members started demanding Rs.3,00,000/- as additional dowry, but due to poor financial condition of the parents of the deceased, the said demand could not be fulfilled. For this reason, the accused-applicant and other co-accused would often torture, harass and subject the deceased to cruelty. It is alleged that on 26.9.2021, the complainant, brother of the deceased, was informed by some person that his sister was killed by the accused-applicant and other co-accused.

6. Post-mortem report would disclose the following ante-mortem injuries on the body of the deceased:-

"1. Ligature mark 34 x 1 cm all around neck, no gap, ligature mark 4 cm below left ear, 3 cm below chin, 4 cm below right ear.

2. Contusion 2 x 1 cm over Rt. Elbow.

3. Contusion 3 x 2 cm over Lt. Elbow.

4. Contusion 5 x 3 cm over medial aspect of right arm.

5. Contusion 8 x 4 cm over left side scapula.

6. Contusion 5 x 3 cm Rt. side buttock."

7. Learned AGA submits that the deceased was badly assaulted and when she became unconscious, she was hanged. Cause of death was asphyxia due to ante-mortem strangulation.

8. Considering the fact that the deceased got killed in the house of the accused-applicant and there is nothing on record to suggest that he was not present at the time of the incident and the death has taken place after three years of marriage, this Court does not find any ground to enlarge the accused-applicant on bail.

9. Bail application is accordingly rejected."

4. I do not find any change of circumstance to enlarge the accused-applicant on bail at this stage. This bail application is **rejected**.

(Dinesh Kumar Singh, J.)

Order Date :- 30.5.2023
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