

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8443 of 2023

Applicant :- Smt. Shyama Devi

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

Counsel for Applicant :- Ashish Raman Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Heard Shri Ashish Raman Mishra, learned counsel for the accused-applicant as well as learned counsel representing the State and perused the record.
2. This bail application has been moved by the accused/applicant- **Smt. Shyama Devi** for grant of bail, in Case Crime No.841 of 2021 arising out of Case Crime No.222 of 2021, under Sections 498A, 304B I.P.C and Section 3 & 4 Dowry Prohibition Act, 1961, registered at Police Station- Kotwali Dehat, District - Bahraich, during trial.
3. Learned counsel for the accused-applicant while pressing the bail application submits that the applicant has been falsely implicated in this case and she has not committed any offence as claimed by the prosecution.
4. It is further submitted that the applicant is the mother-in-law of the deceased and she had never demanded any dowry or subjected the deceased to cruelty in lieu of any demand and all the averments made in the F.I.R. as well as in the statement of the prosecution witnesses are false, concocted and could not be believed. The deceased was married to the son of the applicant and she appears to have committed suicide, which is also evident from the postmortem report, wherein cause of death of the deceased has been shown due to asphyxia as a result of ante mortem hanging and apart from a ligature mark around the neck of the deceased, six injuries have been found on the person of the deceased and in presence of the husband of the deceased, no liability or responsibility could be fastened on the applicant to explain the circumstances, under which the deceased had committed suicide as the applicant was living separately in the same house and was not having any concern with their affairs.
5. It is further submitted that general allegations of demand of

dowry has been made against all the accused persons named in the F.I.R., however, no overact or specific allegation has been levelled against the applicant and in presence of the husband of the deceased, the applicant could never be the beneficiary of the dowry, which was being allegedly demanded. It is further submitted that similarly placed co-accused person (father-in-law) of the alleged crime, namely, Molhe has been released on bail by the Coordinate Bench of this Court, vide order dated 28.08.2023 passed in Criminal Misc. Bail Application No.10304 of 2023.

6. It is next submitted that applicant is in jail in this case since 26.05.2021 and she is not carrying any criminal history. There is no apprehension that after being released on bail the applicant may flee from the course of law or may otherwise misuse the liberty.

7. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and having regard to the material/evidence available against the applicant, she is not entitled to be released on bail.

8. Having heard learned counsel for the parties and having perused the record, it is evident that the applicant is the mother-in-law of the deceased. The postmortem report of the deceased would reveal that apart from a ligature mark around the neck of the deceased, six other injuries have been found on the person of the deceased and the cause of death of the deceased is ascertained as due to asphyxia as a result of ante mortem hanging. It is vehemently submitted by learned counsel for the applicant that the deceased appears to have committed suicide and in presence of the husband of the deceased, the liability could not be fastened on the applicant, who was living separately, to explain the circumstances, under which the deceased had committed suicide. Applicant is in jail in this case since 26.05.2021 without any previous criminal history. Similarly placed co-accused person (father-in-law) of the alleged crime, namely, Molhe has been released on bail by the Coordinate Bench of this Court. The presence of the applicant could be secured before the trial court by placing adequate conditions.

9. Having regard to the overall facts and circumstances of the case and keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits of the case, I am of the considered view that applicant has made out a case for bail. The bail

application is thus **allowed**.

10. Let the accused/applicant- **Smt. Shyama Devi** involved in above-mentioned case, be released on bail on her furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

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

12. Identity, status and residence proof of the applicant and sureties be verified by the Court concerned before the bonds are accepted.

13. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression of this Court on the merits of the case.

Order Date :- 13.10.2023

Anupam S/-