

**Court No. - 9**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 10463 of 2023

**Applicant :-** Sudhakar Awasthi

**Opposite Party :-** State Of U.P. Thru. Secy. Home Lko.

**Counsel for Applicant :-** Rohan Pathak,Vineet Mani Tripathi

**Counsel for Opposite Party :-** G.A.

**Hon'ble Rajan Roy,J.**

Heard learned counsel for the applicant, learned A.G.A. and perused the record.

This is the third bail application preferred by the accused- applicant - Sudhakar Awasthi, who is under trial in Sessions Trial No. 245 of 2019 arising out of Case Crime No. 07 of 2019, under Sections- 498A, 304B, 302 I.P.C. and Section 3/4 of the Dowry Prohibition Act , Police Station- Tambour, District- Sitapur.

The first order was passed on 03.06.2020 rejecting the first bail application with the direction that the trial should be completed as early as possible, say within one year and also that once the witnesses of fact have been examined it shall be open for the applicant to move a fresh application for bail.

The trial could not be completed, as such, the second bail application had been filed which was rejected on 24.06.2022 and again with the observation that the trial Court should complete the trial as early as possible, say within one year and once the witnesses of fact have been examined, who are said to be four in numbers it shall be open for the applicant to move fresh bail application.

The applicant - husband is in jail since 10.02.2019. The trial is still pending. Out of four witnesses of fact three witnesses i.e. PW -1(Jagmohan Mishra) the father of the deceased, PW -2 (Shyamakali) the mother of the deceased and PW-3 (Shanni) the brother of the deceased have already been examined and PW-4 (Laxmi) who is said to be the 'Bua' of the deceased has been examined-in-chief. Her cross examination has not been held as per

the report of the Additional District Judge, Court No.1, Sitapur dated 06.10.2023 but it is to be held.

Learned A.G.A. has opposed the bail on the ground of facts narrated in the F.I.R.

In view of the facts and circumstances of the case and rival contentions and also considering the period of incarceration of the applicant- husband and pendency of the trial which has not been completed as yet and taking into consideration that PW-1, PW-2 and PW-3 have already been examined and the testimony of PW-4 is almost on the verge of completion, therefore, there is no likelihood of the trial being influenced and without entering into the merit of the case, I am of the opinion that the accused-applicant Sudhakar Awasthi is entitled to be released on bail.

The bail application is **allowed.**

Let applicant **Sudhakar Awasthi** be released on bail in the aforesaid case crime number on his furnishing personal bond and two heavy sureties of the like amount to the satisfaction of the court concerned with the following conditions :

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates 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.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under section- 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 174-A of the

## Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under section-313 Cr.P.C. If in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law.

(v) In case, applicant threatens or tries to influence the witnesses then prosecution will be at liberty to move application for cancellation of his bail.

(vi) The applicant shall submit copy of his passport, Aadhar Card and PAN Card after release before the trial Court on the next date.

**(Rajan Roy,J.)**

**Order Date :- 12.10.2023**  
R.K.P.