

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10544 of 2023

Applicant :- Dhanpta

Opposite Party :- The State Of U.P. Thru. Its Prin. Secy. Home Deptt. Civil Sectt. U.P. Lucknow

Counsel for Applicant :- Ashish Raman Mishra

Counsel for Opposite Party :- G.A., Santosh Kumar Yadav

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Shri Ashish Raman Mishra, learned counsel for the accused-applicant; learned counsel representing the State as well as Shri Santosh Kumar Yadav, learned counsel appearing for the informant/ complainant and perused the record.

2. This bail application has been moved by the accused/applicant- **Dhanpta** for grant of bail, in Case Crime No.190/2023, under Sections 498-A, 304-B I.P.C. & 3/4 of the Dowry Prohibition Act, Police Station- Motipur, 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 general allegations of demand of dowry and committing cruelty in lieu thereof have been attributed to all the accused persons named in the F.I.R., however, specific role of demand of Rs.2 lakh has been assigned to the husband of the deceased.

5. It is further submitted that applicant, being the mother-in-law of the deceased, was living separately in the same house and since the deceased was married to the son of the applicant, she was not having any concern with their affairs and as she was living separately, she may not be the beneficiary of the dowry, which was being allegedly demanded by her son and also not in a position to explain the circumstances, under which the deceased had committed suicide. Attention of this Court has been drawn on the post mortem report as well as the statement of the doctor, who has conducted the post mortem, namely, Rajesh Kumar Basant in order to show that apart from a ligature

mark found around the neck of the deceased, two injuries of the nature of abrasion and abraded contusions have been found and the cause of death has been ascertained as asphyxia as a result of ante mortem hanging. While the doctor has specifically stated that the two injuries shown to have been sustained by the deceased may not be the result of any assault. Thus the deceased, in all probability, has committed suicide and explanation of which could only be furnished by the husband of the deceased. The applicant is a rustic village lady. The applicant is in jail in this case since 02.06.2023 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.

6. 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.

7. Shri Santosh Kumar Yadav, learned counsel appearing for the informant/complainant vehemently opposes the prayer of bail of the applicant on the ground that the role of demand of dowry and committing cruelty in lieu thereof has also been assigned to the instant applicant and the dead body of the deceased has also been found in her house, therefore, she is not entitled to be released on bail.

8. Perusal of the record would reveal that the applicant is the mother-in-law of the deceased. The cause of death of the deceased has been ascertained as asphyxia as a result of ante mortem hanging and it is submitted that she has committed suicide. The statement of the doctor, who had conducted the post mortem has also been highlighted in order to show that two injuries, apart from a ligature mark found around the neck of the deceased, shown on the person of the deceased may not be the result of any assault. The applicant, being a lady, is in jail in this case since 02.06.2023 without any previous criminal history. 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- **Dhanpta** 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 :- 18.10.2023

Gurpreet Singh