

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11149 of 2023

Applicant :- Smt. Tahira

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

Counsel for Applicant :- Vimal Shukla

Counsel for Opposite Party :- G.A., Rama Niwas Pathak

Hon'ble Mohd. Faiz Alam Khan, J.

1. Counter affidavit filed on behalf of the complainant/informant is taken on record.
2. Heard Shri Vimal Shukla, learned counsel for the accused-applicant, Shri Rama Niwas Pathak, learned counsel appearing for the complainant/informant as well as learned A.G.A. for the State and perused the record.
3. This bail application has been moved by the accused/applicant- **Smt. Tahira** for grant of bail, in Case Crime No. 307 of 2023, under Sections 498-A, 304-B I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station Wazirganj, District Gonda, during trial.
4. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. Applicant is the mother-in-law of the deceased, who had died after 05 years of her marriage with the son of the applicant. However, since the marriage of the deceased with the son of the applicant they were living separately in the same house and as the applicant was also living separately she would not be obliged to explain the circumstances under which the deceased has either committed suicide or done to death, as the same could only be explained by the husband of the deceased.
5. It is further submitted that the allegation of demand of Rs. 2 lac cash has been levelled against the applicant as well as the husband. However, in presence of the husband of the deceased, the applicant may not be the beneficiary of the same being a rustic village lady.
6. It is also submitted that in the postmortem report though, 06 injuries of the nature of contusions have been noticed along with a 'ligature mark' around the neck of the deceased. However, the cause of death of the deceased has been

ascertained as 'asphyxia', as a result of 'antemortem hanging' and, therefore, in all probability she had committed suicide. Applicant is in jail in this case since 07.07.2023 and she is not having any criminal history and there is no apprehension that after being released on bail she 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 heinous offence and, therefore, she is not entitled to be released on bail.

8. Shri Rama Niwas Pathak, learned counsel appearing for the complainant/informant vehemently opposes the prayer of bail of the applicant on the ground that the F.I.R. has been lodged against the applicant and husband of the deceased and no other family member of the applicant has been named therein, which shows that the deceased was being subjected to cruelty in lieu of demand of dowry by the applicant and husband of the deceased, namely, Shahid.

9. It is also submitted that many injuries have been noticed on the person of the deceased in the postmortem report and the deceased appears to have first assaulted and, thereafter, hanged. Thus, having regard to the gravity of the offence, the applicant is not entitled to be released on bail.

10. Perusal of the record would reveal that the deceased has died after 05 years of her marriage with the son of the applicant. Applicant admittedly is the mother-in-law of the deceased. Separate living, however, in the same house, has been claimed and it is submitted on behalf of the applicant that as the applicant was living separately in the same house, she would not be obliged to explain the circumstances under which the deceased has sustained injuries or has committed suicide, as the same could only be explained by the husband of the deceased, who was living with the deceased in a separate room. It is also submitted that being a rustic village lady applicant may not be beneficiary of any dowry, which was being allegedly demanded. Applicant is in jail in this case since 07.07.2023 without any criminal antecedents and the presence of the applicant could be secured before the trial court by placing adequate conditions.

11. 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**.

12. Let the accused/applicant- **Smt. Tahira** 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.

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

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

15. 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 on the merits of the case.

Order Date :- 16.10.2023

Praveen