

**Court No. - 14**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 13033 of 2022

**Applicant :-** Vipin Kumar Pal

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

**Counsel for Applicant :-** Vikas Vikram Singh, Naved Ali, Raghvendra Singh

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

**Hon'ble Mohd. Faiz Alam Khan, J.**

1. Heard learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.
2. This second bail application has been moved by the accused/applicant- **Vipin Kumar Pal** for grant of bail, in Case Crime No. 118/ 2020 , under Sections 498-A, 304-B I.P.C. & Section 3/4 Dowry Prohibition Act, Police Station- Jankipuram, District- Lucknow, during trial as his first bail application has been rejected by a Coordinate Bench of this Court. However, the Hon'ble Judge who had rejected the first bail application of the applicant has retired on superannuation.
3. Learned counsel for the accused-applicant while pressing the bail application submits that the applicant has been falsely implicated in this case and he has not committed any offence as claimed by the prosecution.
4. It is further submitted that the applicant is the husband of the deceased, who had died by committing suicide a little before her first marriage anniversary. However, the applicant has never subjected the deceased to cruelty in lieu of demand of any dowry and all the allegations which have been levelled in the first information report as well as in the statements of the prosecution witnesses with regard to the demand of dowry and committing cruelty in lieu thereof are false, concocted and could not be believed.
5. While drawing the attention of this Court towards various paragraphs of the bail application, it is submitted that the applicant had done all which was necessary to take care of the deceased and also got her admitted in *Auxiliary Nurse and Midwife* Course. However, she appears to have developed intimacy with some other boys and when she was objected in this regard, she felt guilty and it appears that on account of the

same, she had committed suicide.

6. In order to fortify his submissions, learned counsel for the applicant has drawn the attention of this Court towards the statements of the independent witnesses, namely, Ram Naresh Gautam, Pappu Pandey, Babli Pandey and Kamruddin, who have stated that the deceased had developed intimacy with some other boys and was wandering with them and when her conduct was objected to by the applicant, she used to quarrel. Thus, in presence of the statements of the independent witnesses, the statements of the family members of the deceased appears to be biased and untrustworthy.

7. It is vehemently submitted that it has been admitted by various prosecution witnesses in their statements that the applicant was a vegetables vendor and having regard to the financial condition of both the families, the demand of Rs.5.00 lacs for purchase of car appears to be absurd and could not be believed.

8. While drawing the attention of this Court towards the post mortem report, it is submitted that a ligature mark has been found around the neck of the deceased and the cause of death has been ascertained as asphyxia due to ante mortem hanging and it is also evident from the inquest report that the deceased had committed suicide by hanging herself and it is not a case of wilful/ intentional homicide.

9. It is also submitted that the applicant is in jail in this case since 20.05.2020 and till now only the charges against the applicant has been framed and even the period, which had elapsed on account of challenging the earlier order of framing of charge before a Coordinate Bench of this Court by the applicant, is excluded, the order passed by the Coordinate Bench in Application U/s 482 Cr.P.C. No. 8027 of 2022 was placed before the trial Court on 23.11.2022, but the charges could only be framed again against the applicant on 11.08.2023 without any fault of the applicant. Thus, having regard to the pace with which the case is travelling before the trial Court, the same is not going to be concluded in near future.

10. It is next submitted that the applicant is not having any criminal antecedent. 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 and he undertakes that he will remain present before the trial court as and when his presence would be required and would not influence the prosecution witnesses.

11. Learned A.G.A., on the other hand, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and therefore, he is not entitled to be released on bail, more so, when there is not change in the circumstances since the rejection of his first bail application.

12. Having heard learned counsel for the parties and having perused the record, it is reflected that the first bail application of the applicant was rejected on 30.03.2022. The applicant had earlier challenged the order before this Court by filing application under Section 482 Cr.P.C whereby the charges against the applicant were framed. However, the said application was disposed of on 10.11.2022 with certain directions to the trial Court to frame the charges again. The said order of the Coordinate Bench is shown to have been placed before the trial Court on 23.11.2022. However, for the reasons best known to the trial Court, alternate charges in pursuance of the directions of this Court could only be framed on 11.08.2023. There are no two views with regard to the fact that the applicant is in jail in this case since 20.05.2020, thus, it has been over 3 years and 7 months and we are at the stage of framing of charges. Coming to the merits of the case, a ligature mark has been found around the neck of the deceased and the cause of death has been ascertained as asphyxia due to ante mortem hanging. The hyoid bone of the deceased has been found intact. There is no any other injury found on the body of the deceased except the ligature mark. The inquest report shows that the body of the deceased was lying on the bed and the same was taken down from rope tied to the fan by which the deceased was hanging. The room wherein the deceased is shown to have committed suicide was also found locked from inside. Thus, keeping in view all the facts and circumstances of this case, particularly, the period of detention of the applicant and the evidence which is being placed against the applicant, there appears substantial change in circumstances since the rejection of the first bail application of the applicant. In result, the second bail application filed on behalf of the applicant is **allowed**. The presence of the applicant could be secured before the trial court by placing adequate conditions.

13. Let the accused/applicant- **Vipin Kumar Pal** involved in above-mentioned case, be released on bail on his 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.

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

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

16. 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 :- 2.12.2023**

Gurpreet Singh