

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11902 of 2023

Applicant :- Smt. Aneeta

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

Counsel for Applicant :- Pankaj Kumar Shukla

Counsel for Opposite Party :- G.A., Divya Singh, Divya Si, Raghvendra Singh

Hon'ble Mohd. Faiz Alam Khan, J.

1. Counter affidavit, filed on behalf of the informant/complainant, is taken on record.
2. Heard Shri Pankaj Kumar Shukla, learned counsel for the accused-applicant, learned A.G.A. for the State as well as Ms. Divya Singh, learned counsel for the complainant/informant, and perused the record.
3. This bail application has been moved by the accused/applicant- **Smt. Aneeta** for grant of bail in Case Crime No.0251 of 2023, under Sections 498-A and 304-B I.P.C. read with Section 3/4 of the Dowry Prohibition Act, Police Station Nawabganj, District Gonda, during trial.
4. 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. It is further submitted that the applicant is the mother-in-law of the deceased, who appears to have committed suicide within six months of her marriage with the son of the applicant.
5. It is vehemently submitted that since the marriage of son of the applicant with the deceased, the applicant was living separately in the same house and, on the fateful day, as is evident from the statements of parents of the deceased recorded under Section 161 CrPC, an altercation had taken place between the husband and wife (deceased) and the deceased was forced to leave the marriage function and thereafter a scuffle appears to have taken place between the husband and wife, resulting into commission of suicide by the deceased. It is vehemently submitted that since the applicant was living separately in the same house, she may not be obliged to explain the circumstances under which the deceased has either committed suicide or has been done to death and the same could only be explained by the son of the applicant, who was residing with the deceased.

6. It is further submitted that in the FIR it has not been mentioned that the deceased was being treated with cruelty in lieu of any demand of dowry and the case of committing cruelty in lieu of demand of rupees one lakh cash and jewellery has been carved out subsequently in the statements of the prosecution witnesses which is a clear improvement from the facts mentioned in the FIR. It is also submitted that even the case of the prosecution is taken on its face, the applicant, being a rustic village lady, may not be the beneficiary of the dowry which was being demanded in presence of the husband of the deceased. It is also submitted that applicant is languishing in jail in this case since 31.05.2023 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 a heinous offence and since the deceased has been done to death within six months of her marriage, she is not entitled to be released on bail.

8. Learned counsel for the complainant/informant also opposes the bail plea of the applicant and submits that the deponent of the affidavit enclosed with the bail application has mentioned wrong facts as neither the applicant is suffering from any age related ailment nor she is old aged, rather she is aged about 45 years and since the allegations of demand of dowry have been levelled against the applicant also, the applicant is not entitled to be released on bail.

9. Perusal of record, in the background of submissions advanced by the learned counsel for the parties, would reveal that the deceased has died otherwise than in normal circumstance within six months of her marriage with the son of the applicant. Admittedly, the applicant is the mother-in-law of the deceased. General allegations of demand of dowry have been levelled against all the accused persons by the prosecution witnesses, however, in the FIR no specific allegation or any specific or overt act of making any demand and committing any cruelty in lieu thereof has been levelled against the applicant and in this background it is submitted by the learned counsel for the applicant that the demand of rupees one lakh and some jewellery items have been carved out subsequently. The statements of parents of the deceased have also been highlighted in order to show that it was not a case of dowry demand, rather on 28.05.2023 the husband and wife (deceased) had gone to attend a marriage party where some altercation had taken place between them and as a result of the same the

deceased was forced to leave the function and committed suicide. The postmortem report has also been highlighted wherein a ligature mark around the neck of the deceased and two minor injuries have also been noticed and cause of death has been ascertained asphyxia as a result of antemortem hanging and it is submitted by the learned counsel appearing for the applicant that in all probability the deceased has committed suicide. The applicant is languishing in jail in this case since 31.05.2023 without any criminal antecedents and the presence of the applicant may be secured before the trial court by placing adequate conditions.

10. 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**.

11. Let the accused/applicant- **Smt. Aneeta** 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.

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

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

14. 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.

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[Mohd. Faiz Alam Khan,J.]

Order Date :- 18.11.2023MVS/-