

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13251 of 2023

Applicant :- Sakrun Nisha

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

Counsel for Applicant :- Aman Kumar Shrivastav, Suraj Singh Visen

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Learned A.G.A. informs that he has procured complete instructions in the matter, including up-to-date case diary, and charge-sheet in this case has been filed. Thus, it appears that on the basis of material placed on record the bail plea of the applicant may be adjudicated.

2. Heard counsel for the accused-applicant 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- **Sakrun Nisha** for grant of bail in Case Crime No.0126 of 2023, under Sections 498-A and 304-B IPC read with Section 3/4 D.P. Act lodged at Police Station Dhanepur, 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.

5. It is further submitted that the applicant is mother-in-law of the deceased whose marriage was solemnized with the son of the applicant about five years before lodging of the FIR i.e in the year 2018 and since the marriage of the deceased with the son of the applicant, they were living separately and the applicant was not having any concern with their affairs. It is further submitted that demand of rupees fifty thousand as dowry is being alleged against all the accused persons named in the FIR as well as in the statement of the prosecution witnesses and no overt act or specific allegation has been levelled against the applicant. It is further submitted that the applicant is aged about 65 years, suffering from various age related diseases and she was living separately in the same house. She is not in a

position to explain the circumstances under which the deceased has either been done to death or she has committed suicide and, the same could only be explained by the husband (son of the applicant). It is also submitted that having regard to the age of the applicant, she may not be beneficiary of the dowry and the same could only be attributed to the husband of the deceased.

6. It is next submitted that applicant is languishing in jail in this case since 23.04.2023 and she is not having any previous criminal history. Charge sheet in this case has already been filed 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, therefore, she is not entitled to be released on bail.

8. Perusal of the record, in the background of the submissions advanced by the learned counsel for the parties, would reveal that the deceased has died within five years of her marriage with the son of the applicant. The applicant is mother-in-law of the deceased. In the postmortem report a ligature mark along with five minor contusions have been found on the body of the deceased and cause of death has been ascertained as asphyxia due to antemortem hanging. It has been submitted by the learned counsel appearing for the applicant with considerable force that the applicant may not be the beneficiary of the dowry having regard to her age and as she was living separately, she may not be obliged to explain the circumstances under which the deceased has either been done to death or she has committed suicide and the same could only be explained by the husband of the deceased. The applicant has been languishing in jail in this case since 23.04.2023 without any previous criminal antecedents. Charge sheet in this case has also been filed and the presence of the applicant may be secured before the trial court by placing adequate conditions.

9. 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-**Sakrun Nisha**, 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 on the merits of the case.

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[Mohd. Faiz Alam Khan, J.]

Order Date :- 7.11.2023

MVS/-