

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13499 of 2023

Applicant :- Manju @ Kavita

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

Counsel for Applicant :- Deo Raj Singh

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. It appears that on the basis of material placed on record, the bail plea of the applicant may be adjudicated.
2. 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.
3. This bail application has been moved by the accused/applicant- **Manju alias Kavita** for grant of bail, in Case Crime No.071 of 2023, under Sections 498-A, 304-B I.P.C. and 3/4 of the Dowry Prohibition Act, 1961, Police Station Kheri, District Kheri, 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 he has not committed any offence as claimed by the prosecution.
5. It is further submitted that the applicant is the mother-in-law (sas) of the deceased. The allegations in the first information report are to the tune that the deceased has been done to death by the named accused persons in the F.I.R. due to non-fulfillment of demand of dowry by the informant. As per postmortem report the death of the deceased had occurred due to asphyxia as a result of ante mortem hanging.
6. It is also submitted that general allegation of demand of dowry and committing cruelty in lieu thereof has been levelled against all the accused persons and no specific role of any kind has been attributed to the instant applicant. The applicant being

mother-in-law (sas) of the deceased could never be the beneficiary of the dowry, which was allegedly being demanded.

7. It is further submitted while referring to the ration card of the applicant placed at page no.54 of the paper book that the applicant was living separately from the deceased and her husband and therefore, was not having any concern with their affairs and she is not in a position to explain as to how the deceased had died and the same could only be explained by the husband of the deceased.

8. It is also submitted that the identically placed co-accused, Umesh (husband of the applicant/father-in-law of the deceased) has already been enlarged on bail by this Court vide order dated 24.08.2023 passed in Criminal Misc. Bail Application No.10587 of 2023. The applicant is in jail in this case since 04.04.2023, she is not having criminal history and 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.

9. 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 having regard to the material/evidence available against the applicant, she is not entitled to be released on bail, but could not controvert the other factual submissions made by learned counsel for the applicant.

10. Having heard learned counsel for the parties and having perused the record, it is evident that general allegations of demand of dowry and committing cruelty in lieu thereof has been levelled in the F.I.R. against all accused persons named therein, however, no specific role has been attributed to the instant applicant either in demanding dowry or in committing cruelty. The overt act and allegations have been specifically levelled against the husband of the deceased. Identically placed co-accused, Umesh (husband of the applicant/father-in-law of the deceased) has been enlarged on bail by this Court. As per postmortem report the death of the deceased had occurred due to asphyxia as a result of antemortem hanging. Applicant is in jail in this case since 04.04.2023 without any previous criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions. Applicant is mother-in-law of the deceased.

11. 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.

12. Let the accused/applicant- **Manju alias Kavita** , 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 of this Court on the merits of the case.

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[Mohd. Faiz Alam Khan, J.]

Order Date :- 9.11.2023

MVS/-