

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14186 of 2023

Applicant :- Shakirun Nisha

Opposite Party :- State Of U.P., Thru. Addl. Chief Secy. Home Deptt., Civil Sectr. Lko.

Counsel for Applicant :- Suvivek Bajpai

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 upto date case diary of the case.
2. Heard learned counsel for the accused-applicant as well as learned counsel representing the State and perused the record.
3. This bail application has been moved by the accused/applicant- **Shakirun Nisha** for grant of bail, in Case Crime No.4 of 2023, under Sections 498-A, 304-B I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station Maharajganj, District Raebareli, 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 the mother-in-law of the deceased and the deceased appears to have died after 04 years and 09 months of her marriage with the son of the applicant by jumping into a canal along with her two daughters.
6. It is vehemently submitted that general allegations of demand of motorcycle and washing machine has been levelled against all the accused persons named in the F.I.R. and no overt act or specific averment has been made with regard to the applicant and in all probability she may not be the beneficiary of the dowry, which was being allegedly demanded.
7. It is further submitted that applicant has never committed any kind of cruelty with the deceased nor has demanded any dowry and there was no reason available for her to have treated the deceased with cruelty and as the deceased and the son of the

applicant was not having cordial matrimonial relations, it appears that aggrieved by the same the deceased had taken the extreme step.

8. It is further submitted that apart from the vague averments made in the F.I.R. and in the statement of the witnesses with regard to the applicant, there is no any other trustworthy and cogent material collected by the investigating officer, which may even remotely connect her with the crime.

9. It is also submitted that identically placed co-accused persons namely Mohammad Mustkeem, Naushad and Mohammad Dilshad (brother-in-laws of the deceased) have been granted bail by this Court vide order dated 19.10.2023 passed in Criminal Misc. Bail Application No.9923 of 2023. Applicant is languishing in jail in this case since 10.01.2023 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.

10. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and, therefore, she is not entitled to be released on bail.

11. Having heard learned counsel for the parties and having perused the record, it is evident that admittedly the instant applicant is the mother-in-law of the deceased and after about 04 years and 09 months of her marriage with the son of the applicant the deceased has died. Admittedly the death of the deceased along with her two daughters are otherwise than in normal circumstances. It is alleged that soon before her death the deceased was being subjected to cruelty in lieu of demand of a motorcycle and washing machine. It is vehemently submitted on behalf of the applicant that the applicant was living separately and may not be the beneficiary of the motorcycle or washing machine especially in presence of the husband of the deceased and also as she was living separately, she may not be in a position to explain the circumstances under which the deceased has either done to death or has committed suicide as the same could only be explained by the husband, who was living/residing with the deceased. Identically placed co-accused persons namely Mohammad Mustkeem, Naushad and Mohammad Dilshad (brother-in-laws of the deceased) have been granted bail by this Court. Applicant is languishing in jail in this case since 10.01.2023 without any criminal antecedents and the presence of the applicant may be secured before the trial court by placing adequate conditions.

12. 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**.

13. Let the accused/applicant- **Shakirun 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.

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

Anupam S/-