

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14389 of 2023

Applicant :- Shobhawati @ Telha

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

Counsel for Applicant :- Vivek Kumar Pandey

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- **Shobhawati @ Telha** for grant of bail, in Case Crime No.0147 of 2020, under Sections 498-A, 304-B I.P.C. & 3/4 of the Dowry Prohibition Act, Police Station Katra Bazar, 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 the sister-in-law (nanad) of the deceased, who has died a little after one year of her marriage with the brother of the applicant in otherwise than in normal circumstances and the marriage of the deceased was solemnized with the brother of the applicant in the year 2019 while the applicant was married in the year 2018 and since then she is living with her husband in a different village. Attention of this Court in this regard has been drawn on the extract of the pariwar register and domicile certificate issued in favour of the applicant as well as her adhar card, which have been placed as Annexure No.9 to the bail application.
6. It is vehemently submitted that since the applicant was living separately, she was not in a position to extend any cruelty in lieu of demand of dowry nor she may be the beneficiary of the demand of jewellery and washing machine in presence of the

husband of the deceased. General allegations of demand of dowry has been made against all the accused persons named in the F.I.R., however, no overt act or specific allegation has been levelled against the applicant.

7. It is also submitted that identically placed co-accused persons namely Ramshanker (father-in-law) and Sammedei @@ Devi (mother-in-law of the deceased) have been granted bail by co-ordinate Benches of this Court, vide orders dated 09.11.2020 and 09.12.2022 passed in Criminal Misc. Bail Application Nos.7985 of 2020 and 14463 of 2022, respectively. Applicant is languishing in jail in this case since 29.08.2023 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.

8. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that a little after one year of her marriage the deceased has been done to death by her husband and other family members including the applicant and having regard to the material/evidence available against the applicant, she is not entitled to be released on bail more so when the deceased has also sustained some injuries.

9. Having heard learned counsel for the parties and having perused the record, it is evident that the applicant is the sister-in-law (nanad) of the deceased. The postmortem report of the deceased would reveal that three contusions and one abrasion along with a ligature mark around the neck of the deceased have been found on the person of the deceased and the cause of death of the deceased has been ascertained due to asphyxia as a result of ante mortem hanging. General allegations of demand of jewellery and washing machine has been made against all the accused persons named in the F.I.R., however, no overt act or specific allegation has been levelled against the applicant. The defence of the applicant appears to be that her marriage was solemnized in the year 2018 while the marriage of the deceased was solemnized with the brother of the applicant in the year 2019 and at the relevant point of time, she was living in a different village in her *sasural* and since she was living separately, she was not in a position to explain the circumstances, under which the deceased had died and she may also not be the beneficiary of any dowry. Identically placed co-accused persons namely Ramshanker (father-in-law) and Sammedei @@ Devi (mother-in-law of the deceased) have been granted bail by co-ordinate Benches of this Court. Applicant is in jail in this case since 29.08.2023 without any previous criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions.

10. 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**.

11. Let the accused/applicant- **Shobhawati @ Telha** 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 of this Court on the merits of the case.

Order Date :- 7.12.2023

Anupam S/-