

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9780 of 2025

Applicant :- Anarjeet

Opposite Party :- State of U.P.

Counsel for Applicant :- Parmeshwar Yadav, Ravi Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra, J.

1. Heard Mr. Parmeshwar Yadav, the learned counsel for applicant and the learned A.G.A. for State-opposite party-1.

2. Perused the record.

3. This repeat application for bail has been filed by applicant- **Anarjeet**, seeking his enlargement on bail in Case Crime No. 249 of 2023, under Sections 498-A, 304-B, 201 IPC and Sections 3/4 Dowry Prohibition Act, Police Station-Shyamdeurawa, District-Maharajganj during the pendency of trial i.e. Sessions Trial No.1148 of 2023 (State Vs. Anarjeet and others) under Sections 498-A, 304-B, 201 IPC and Sections 3/4 Dowry Prohibition Act, Police Station-Shyamdeurawa, District-Maharajganj.

4. The first bail application of applicant was rejected by this Court by a detailed order dated 29.11.2023 passed in Criminal Misc. Bail Application No.51041 of 2023 (Anarjeet and another Vs. State of U.P.). For ready reference, the order dated 29.11.2023 is reproduced hereinunder:-

"1. Heard Mr. Parmeshwar Yadav, the learned counsel for applicants and the learned A.G.A. for State.

2. Perused the record.

3. This application for bail has been filed by applicants- Anarjeet (Father-in-law) and Prabhavati (Mother-in-law) of the deceased, seeking their enlargement on bail in Case Crime No. 249 of 2023, under Sections 498-A, 304-B, 201 IPC and Secgtions 3/4 Dowry Prohibition Act, Police Station-Shyamdeurawa, District-Maharajganj during the pendency of trial.

4. Record shows that marriage of Umesh (son of applicants) was solemnized with Monika on 12.06.2022. However, unfortunately, after expiry of a period of 1 year, 1 month and few days from the date of marriage of the son of applicants, an unfortunate incident occurred on 24.07.2023 in which, the daughter-in-law of applicants namely Monika

died.

5. However, without giving any information to the family members of deceased or at the concerned Police Station, the dead body of deceased was cremated. Subsequently, the mother of deceased namely Smt. Dharma Devi lodged an FIR dated 25.07.2023 and was registered as Case Crime No. 249 of 2023, under Sections 498-A, 304-B, 201 IPC and Secctions 3/4 Dowry Prohibition Act, Police Station-Shyamdeurawa, District-Maharajganj. In the aforesaid FIR, 6 persons namely - (1) Umesh, (2) Anarjeet, (3) Prabhavati, (4) Jeth, (5) Jethani and (6) Devar have been nominated as named accused.

6. The gravamen of the allegations made in the FIR is that apart from the usual narration with regard to the marriage of deceased and the date of marriage, the FIR further records that there was a deficiency of Rs. 30 thousand in the amount of dowry that was agreed to be paid at the time of marriage of the son of applicants. As per the allegations made in the FIR, the named accused caused physical and mental cruelty upon deceased on account of non-fulfillment of aforesaid balance amount of dowry. The FIR ultimately concludes with the recital that the daughter of the first informant was put to death on 24.07.2023 and without giving any information to the first informant, her dead body was cremated.

7. Learned counsel for applicant contends that though applicants are father-in-law and mother-in-law of deceased, named and charge sheeted accused yet they are liable to be enlarged on bail. Applicants cannot be said to be the beneficiary of the alleged demand of dowry. The son of the applicants i.e. husband of deceased is already languishing in jail. Moreover, the amount of dowry which is alleged to be payable by the parents of deceased is only Rs. 30 thousand. Considering the above, he submits that it is impossible that for aforementioned pity amount, the daughter-in-law of applicants shall be put to death. Moreover, the applicant-Prabhavati is a lady and therefore, she is entitled to the benefits of the provisions contained in proviso to Section 437 Cr.P.C.

8. Even otherwise, applicants are of clean antecedents inasmuch as, they have no criminal history to their credit except the present one. Applicants are in jail since 26.07.2023. As such, they have undergone more than 4 months of incarceration. The police report in terms of Section 173(2) Cr.P.C. has already been submitted on 15.10.2023 whereby applicants have been charge sheeted under Sections 498-A, 304-B, 201 IPC and Secctions 3/4 Dowry Prohibition Act whereas the investigation in respect of other named accused is still pending. As such, the entire evidence sought to be relied upon by the prosecution against applicants stands crystallized. However, up to this stage, no such circumstance has emerged on record necessitating the custodial arrest of applicants during the pendency of trial. On the above premise, he submits that applicants are liable to be enlarged on bail. In case, the applicants are enlarged on bail, they shall not misuse the liberty of bail and shall co-operate with the trial.

9. Per contra, the learned A.G.A. has opposed the prayer for bail. He submits that since applicants are father-in-law and mother-in-law of deceased, a named as well as charge sheeted accused, therefore, they do not

deserve any indulgence by this Court. The death of the deceased has occurred just after expiry of a period of 1 year, 1 month and few days from the date of her marriage. The deceased was a young lady whose death has occurred in unnatural circumstances. Applicants being the mother-in-law and father-in-law of deceased and also inmates of the house in which, the occurrence has occurred are required to not only explain the manner of occurrence but also their innocence in terms of Sections 106 and 113-B of the Evidence Act. However, the applicants have miserably failed to discharge the said burden up to this stage. The dead body of deceased was disposed of without informing the family members of deceased or by informing the police at the concerned Police Station. As such, neither the inquest nor the post mortem of the body of deceased could be conducted. Consequently, the cause of death of deceased is unascertainable. On the above premise, the learned A.G.A. contends that no sympathy be shown by this Court in favour of applicants.

10. Having heard, the learned counsel for applicants, the learned A.G.A. for State, upon perusal of record, evidence, nature and gravity of offence, accusations made, complicity of accused and coupled with the fact that since applicant-Prabhavati is a lady, therefore, she is entitled to the benefit of the provisions contained in proviso to Section 437 Cr.P.C., therefore, applicant-Prabhavati alone is entitled to be enlarged on bail, the learned counsel for applicants could not dislodge the objections raised by the learned A.G.A. with reference to the record at this stage qua the applicant-Anarjeet, therefore, irrespective of the varied submissions urged by the learned counsel for applicant in support of the bail application of applicant-Anarjeet, this Court does not find any good or sufficient ground to enlarge the applicant-Anarjeet on bail, as such, the prayer for bail of applicant-Anarjeet is refused. Consequently, the bail application is liable to be partly allowed.

11. Accordingly, the bail application is partly allowed. The prayer for bail of applicant-Anarjeet is refused whereas the prayer for bail of applicant-Prabhavati is allowed.

12. Let the applicant-Prabhavati, be released on bail in the aforesaid case crime number on her furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) THE APPLICANT SHALL FILE AN UNDERTAKING TO THE EFFECT THAT HE/SHE SHALL NOT SEEK ANY ADJOURNMENT ON THE DATE FIXED FOR EVIDENCE WHEN THE WITNESSES ARE PRESENT IN COURT. IN CASE OF DEFAULT OF THIS CONDITION, IT SHALL BE OPEN FOR THE TRIAL COURT TO TREAT IT AS ABUSE OF LIBERTY OF BAIL AND PASS ORDERS IN ACCORDANCE WITH LAW.

(ii) THE APPLICANT SHALL REMAIN PRESENT BEFORE THE TRIAL COURT ON EACH DATE FIXED, EITHER PERSONALLY OR THROUGH HIS/HER COUNSEL. IN CASE OF HIS/HER ABSENCE, WITHOUT SUFFICIENT CAUSE, THE TRIAL COURT MAY PROCEED AGAINST HIM/HER UNDER SECTION 229-A IPC.

(iii) IN CASE, THE APPLICANT MISUSES THE LIBERTY OF BAIL DURING TRIAL AND IN ORDER TO SECURE HIS/HER PRESENCE PROCLAMATION UNDER SECTION 82 CR.P.C., MAY BE ISSUED AND IF APPLICANT FAILS TO APPEAR BEFORE THE COURT ON THE DATE FIXED IN SUCH PROCLAMATION, THEN, THE TRIAL COURT SHALL INITIATE PROCEEDINGS AGAINST HIM/HER, IN ACCORDANCE WITH LAW, UNDER SECTION 174-A IPC.

(iv) THE APPLICANT SHALL REMAIN PRESENT, IN PERSON, BEFORE THE TRIAL COURT ON DATES FIXED FOR (1) OPENING OF THE CASE, (2) FRAMING OF CHARGE AND (3) RECORDING OF STATEMENT UNDER SECTION 313 CR.P.C. IF IN THE OPINION OF THE TRIAL COURT ABSENCE OF THE APPLICANT IS DELIBERATE OR WITHOUT SUFFICIENT CAUSE, THEN IT SHALL BE OPEN FOR THE TRIAL COURT TO TREAT SUCH DEFAULT AS ABUSE OF LIBERTY OF BAIL AND PROCEED AGAINST THE HIM/HER IN ACCORDANCE WITH LAW.

(v) THE TRIAL COURT MAY MAKE ALL POSSIBLE EFFORTS/ENDEAVOUR AND TRY TO CONCLUDE THE TRIAL WITHIN A PERIOD OF ONE YEAR AFTER THE RELEASE OF THE APPLICANT.

13. However, it is made clear that any wilful violation of above conditions by the applicant, shall have serious repercussion on his bail so granted by this Court and the trial court is at liberty to cancel the bail, after recording the reasons for doing so, in the given case of any of the condition mentioned above."

5. Learned counsel for applicant submits that subsequent to above order dated 29.11.2023 the prosecution of applicant commenced before Court below. All the prosecution of witnesses of fact who have deposed before Court below have been declared hostile. Furthermore, husband of the deceased namely Umesh Bharti has also been enlarged on bail by this Court vide order dated 03.01.2025 passed in Criminal Misc. Bail Application No.24010 of 2024 (Umesh Bharti Vs. State of U.P.). For ready reference, the order dated 03.01.2025 is reproduced hereinbelow:-

"1. List has been revised.

2. Heard Sri Parmeshwar Yadav, learned counsel for the applicant, Sri Sunil Kumar, learned A.G.A. for the State and perused the material placed on record.

3. Applicant seeks bail in Case Crime No. 249 of 2024, under Sections 498-A, 304-B and 201 of I.P.C. and Sections 3/4 of Dowry Prohibition Act, Police Station - Shyamdeurawa, District - Maharajganj, during the pendency of trial.

4. Learned counsel for the applicant has argued that the applicant is

absolutely innocent and has been falsely implicated in the present case. He has nothing to do with the said offence as alleged in the FIR. There are general allegations against all the accused persons including the applicant, who happens to be the husband of the deceased person.

5. Learned counsel has further stated that the FIR stands falsified from the fact that the family members of the applicant did not inform the informant about the death of her daughter while she is the panch witness no.1 in the inquest proceedings which was completed on 25.07.2023 at 1300 hours. The FIR was instituted subsequent to it. The applicant resides outside the country.

6. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. There is no criminal history of the applicant. The applicant is languishing in jail since 16.12.2023 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.

7. Per contra, learned A.G.A. has vehemently opposed the bail application but unable to dispute the submissions raised by the learned counsel for the applicant and also the fact that the applicant has no criminal history.

*8. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, and taking into consideration the settled law of the Supreme Court passed in *Satender Kumar Antil vs. Central Bureau of Investigation and Ors.*, 2022 INSC 690 and *Manish Sisodia vs. Directorate of Enforcement*, 2024 INSC 595 and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.*

9. Let the applicant- Umesh Bharti, who is involved in aforementioned case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with evidence.

(ii) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

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

11. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his

independent opinion based on the testimony of the witnesses."

6. On the above premise, the learned counsel for applicant submits that since the husband of the deceased has already been enlarged on bail, therefore, applicant who is father-in-law of deceased is also liable to be enlarged on bail on the ground of parity. It is then submitted by the learned counsel for applicant that all the prosecution witnesses of fact who have deposed before Court below have not supported the prosecution story as unfolded in the FIR. On the basis of aforementioned two subsequent events as have emerged on record of concerned Special Sessions Trial the applicant is liable to be enlarged on bail during the pendency of trial.

7. Even otherwise, applicant is a man of clean antecedents inasmuch as, he has no criminal history to his credit except the present one. Applicant is in jail since 26.07.2023. As such, he has undergone more than 1 year and 9 months of incarceration. The charge sheet/police report in terms of Section 173(2) Cr.P.C. has already been submitted by the Investigating Officer. As such, the entire evidence sought to be relied upon by the prosecution against applicant stands crystallized. However, up to this stage, no such incriminating circumstance has emerged on record necessitating the custodial arrest of applicant during the pendency of trial. On the above premise, it is thus urged by the learned counsel for applicant that applicant is liable to be enlarged on bail. In case, the applicant is enlarged on bail, he shall not misuse the liberty of bail and shall co-operate with the trial.

8. Per contra, the learned A.G.A. for State-opposite party-1 has opposed the prayer for bail. He submits that since applicant is a named and charge sheeted accused, therefore, he does not deserve any indulgence by this Court. Applicant is father-in-law of the deceased. The death of the deceased has occurred within 7 years from the date of her marriage in the house of applicant. The deceased was a young and innocent lady who has died an unnatural death. The deceased was approximately aged about 23 years. The death of deceased is highly unnatural. Since, the applicant is an inmate of the house and also the father-in-law of the deceased, therefore, the burden is upon the applicant to not only explain the manner of occurrence but also is innocence in terms of Sections 106 and 113B of the Evidence Act. However, applicant has miserably failed to discharge the said burden up to this stage. It is thus urged that no sympathy be shown by this Court in favour of applicant. On the cumulative strength of above, the learned A.G.A. submits that no good or sufficient ground has emerged so as to

enlarged on applicant on bail during the pendency of trial. However, the learned A.G.A. could not dislodge the factual and legal submissions urged by the learned counsel for applicant that prosecution witnesses of fact who have deposed before Court below have been declared hostile, further, the husband of deceased has already enlarged on bail. Apart from above, the learned A.G.A. could not point out that there is such distinguishing feature, on the basis of which the case of the present applicant could be so distinguished from bailed out co-accused so as to deny him bail.

9. Having heard, the learned counsel for applicant, the learned A.G.A. for State-opposite party-1 and upon perusal of record, evidence, nature and gravity of offence, accusations made, complicity of accused and coupled with the fact that applicant is father-in-law of the deceased, first bail application of applicant was rejected by this Court vide order dated 29.11.2023, subsequent to the order dated 29.11.2023, the husband of the deceased has already enlarged on bail vide order dated 03.01.2025, in view of above and also the fact that there does not exist any such material on record on the basis of which the case of present applicant could not so distinguished from bailed out co-accused (husband of the deceased) so as to deny him bail, therefore, applicant is also entitled to be enlarged on bail on the ground of parity, most of the prosecution witnesses of fact have deposed before Court below but they have declared hostile, the police report in terms of Section 173(2) Cr.P.C. has already been submitted, therefore, the entire evidence sought to be relied upon by the prosecution against applicant stands crystallized yet inspite of above, the learned A.G.A. could not point out any such circumstance from the record necessitating the custodial arrest of applicant during the pendency of trial, the clean antecedents of applicant, the period of incarceration undergone, therefore, irrespective of the objections raised by the learned A.G.A. in opposition to the present repeat application for bail, but without making any comments on the merits of the case, applicant has made out a case for bail.

10. Accordingly, the bail application is **allowed**.

11. Let the **applicant-Anarjeet**, be released on bail in the aforesaid case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) THE APPLICANT SHALL FILE AN UNDERTAKING TO THE EFFECT THAT HE/SHE SHALL NOT SEEK ANY

ADJOURNMENT ON THE DATE FIXED FOR EVIDENCE WHEN THE WITNESSES ARE PRESENT IN COURT. IN CASE OF DEFAULT OF THIS CONDITION, IT SHALL BE OPEN FOR THE TRIAL COURT TO TREAT IT AS ABUSE OF LIBERTY OF BAIL AND PASS ORDERS IN ACCORDANCE WITH LAW.

(ii) THE APPLICANT SHALL REMAIN PRESENT BEFORE THE TRIAL COURT ON EACH DATE FIXED, EITHER PERSONALLY OR THROUGH HIS/HER COUNSEL. IN CASE OF HIS/HER ABSENCE, WITHOUT SUFFICIENT CAUSE, THE TRIAL COURT MAY PROCEED AGAINST HIM/HER UNDER SECTION 229-A IPC.

(iii) IN CASE, THE APPLICANT MISUSES THE LIBERTY OF BAIL DURING TRIAL AND IN ORDER TO SECURE HIS/HER PRESENCE PROCLAMATION UNDER SECTION 82 CR.P.C., MAY BE ISSUED AND IF APPLICANT FAILS TO APPEAR BEFORE THE COURT ON THE DATE FIXED IN SUCH PROCLAMATION, THEN, THE TRIAL COURT SHALL INITIATE PROCEEDINGS AGAINST HIM/HER, IN ACCORDANCE WITH LAW, UNDER SECTION 174-A IPC.

(iv) THE APPLICANT SHALL REMAIN PRESENT, IN PERSON, BEFORE THE TRIAL COURT ON DATES FIXED FOR (1) OPENING OF THE CASE, (2) FRAMING OF CHARGE AND (3) RECORDING OF STATEMENT UNDER SECTION 313 CR.P.C. IF IN THE OPINION OF THE TRIAL COURT ABSENCE OF THE APPLICANT IS DELIBERATE OR WITHOUT SUFFICIENT CAUSE, THEN IT SHALL BE OPEN FOR THE TRIAL COURT TO TREAT SUCH DEFAULT AS ABUSE OF LIBERTY OF BAIL AND PROCEED AGAINST THE HIM/HER IN ACCORDANCE WITH LAW.

(v) THE TRIAL COURT MAY MAKE ALL POSSIBLE EFFORTS/ENDEAVOUR AND TRY TO CONCLUDE THE TRIAL WITHIN A PERIOD OF ONE YEAR AFTER THE RELEASE OF THE APPLICANT.

12. However, it is made clear that any wilful violation of above conditions by the applicant, shall have serious repercussion on his bail so granted by this Court and the trial court is at liberty to cancel the bail, after recording the reasons for doing so, in the given case of any of the condition mentioned above.

Order Date :- 5.5.2025/Imtiyaz