

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9520 of 2025

Applicant :- Smt. Krishna Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Gopi Krishna Sood, Mohit Behari Mathur

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal, J.

1. List revised.

2. Heard Sri Mohit Behari Mathur and Sri Gopi Krishna Sood, learned counsels for the applicant, and Sri Bade Lal Bind, learned counsel for the State and perused the material on record.

3. This bail application under Section 439 of Code of Criminal Procedure / under Section 483 of B.N.S.S., 2023 has been filed by the applicant- **Smt. Krishna Devi**, seeking enlargement on bail during trial in connection with Case Crime No. 147 of 2022, under Sections 498-A, 304-B I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station Kamasin, District Banda.

4. Learned counsel for the applicant argued that the applicant is the mother-in-law of the deceased Smt. Sandhya. She has been falsely implicated in the present case. It is argued that the marriage of the deceased was solemnized with Shivakant Pandey the son of the applicant on 24.06.2019. It is further argued that general and omnibus allegations have been levelled against the applicant and all the accused persons. The deceased committed suicide which is suggestive from the postmortem examination report, wherein, the deceased has received a single ligature mark on her body and the cause of death has been opined as asphyxia as a result of antemortem hanging. It is argued that co-accused Shivakant Pandey the husband of the deceased has been granted bail by a co-ordinate Bench of this Court vide order dated 16.12.2023 passed in Criminal Misc. Bail Application No. 56181 of 2022 (Shivakant Pandey Vs. State of U.P.), the copy of the said order is annexed as Annexure-7 to the affidavit which reads as under:-

"1. Heard Shri Mangala Prasad Rai, learned Senior Advocate, assisted by Shri Ashok Kumar Rai, the learned counsel for the applicant, learned A.G.A for the State as well as learned counsel for the informant and perused the record.

2. Learned counsel for the applicant submits that the applicant is husband of the deceased, he is innocent and has been falsely implicated in the present case. Learned counsel further submits that F.I.R. was lodged by the complainant against the applicant and his other family members with the allegation that he had solemnize marriage of his daughter with the applicant on 24.06.2019, at the time of marriage sufficient dowry was given but in-laws of her daughter were not satisfied with the same and they used to make demand of additional dowry in the form two lakh rupees in cash, one golden chain and a bullet motorcycle and his daughter has also told that there is illicit

relations of applicant with his sister-in-law (Bhabhi) on account of which husband of daughter of the complainant used to beat her, and on the date of incident a quarrel took place between the applicant and Bhabhi of the applicant when all other family members were not present at home and when they came on the saying of Babhi of the applicant, all the accused persons assaulted her and killed her by strangulating her neck by a rope. Learned counsel for the applicant further submits that in their statements the complainant and other witnesses have supported the prosecution case. Learned counsel for the applicant further submits in the inquest proceedings applicant was present and he is one of the witness of the same, postmortem of the deceased was conducted, wherein except one ligature mark all around the neck no other injury was found on the person of the deceased and her cause of death was found to be asphyxia as a result of ante mortem strangulation. Learned counsel for the applicant further submits that only general allegations have been made against the applicant and his family members for committing the murder of the deceased and no specific allegation has been made against any of the accused persons. Learned counsel for the applicant further submits that out of the wedlock of the deceased and the applicant a daughter was born and to show good faith two piece of land has been transferred to the minor daughter of applicant aged about three and half years by two sale deeds, by the family members of the applicant, photo copies of the sale deeds have been annexed as Annexure No.R.A.1 & R.A.2 to the rejoinder affidavit dated 28.05.2023, therefore, prayer for bail of applicant may be considered sympathetically. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. He next submits that applicant is languishing in jail since 25.07.2022, having no criminal history.

3. Per contra, learned A.G.A. as well as learned counsel for the informant have opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence, but they have not disputed the fact that some piece of land has been transferred by sale deeds in favour of the minor daughter of the applicant and the deceased to secure her future.

4. After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, without expressing any opinion on merits of the case, this Court is of the view, that the applicant may be enlarged on bail.

5. Let applicant-Shivakant Pandey, involved in Case Crime No. 147 of 2022, under Sections 498-A, 304-B I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station Kamasin, District Banda, be enlarged on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

(i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

(ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he 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.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his 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, in accordance with law, under section 174-A I.P.C.

(v) 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 and the trial court may proceed against him under Section 229-A IPC.

6. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail in accordance with law.

7. The bail application is allowed."

5. It is further submitted that the applicant was granted anticipatory bail till submission of police report under Section 173 (2) Cr.P.C. before the competent court vide order dated 27.09.2022 passed in Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No. 8705 of 2022 (Smt. Krishna Devi Vs. State of U.P.), the copy of the said order is also annexed as Annexure-7 to the affidavit which reads as under:-

"Heard Sri Mahadeo Singh Chandel, learned counsel for the applicant, Sri Ram Mohit Yadav, learned Additional Government Advocate for the State and perused the records.

The present anticipatory bail application has been filed on behalf of the applicant in Case Crime No.147 of 2022, under Sections 498-A and 304-B IPC & 3/4 Dowry Prohibition Act at Police Station- Kamasin, District Banda with a prayer to enlarge her on anticipatory bail.

As per prosecution story, the applicant in collusion with other co-accused persons is stated to have subjected the sister of the informant to cruelty for a demand of dowry and she is stated to have died under abnormal circumstances in the house of her in-laws.

Learned counsel for the applicant has stated that the applicant is the mother-in-law of the deceased and has been falsely implicated in the present case. The applicant is an aged person and has nothing to do with the said offence. She is living separately to the husband of the deceased person. Learned counsel has placed much reliance on the affidavit filed on behalf of the informant, which has been annexed as annexure no.5 to the bail application, wherein the informant has denied the allegations levelled in the FIR. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against her. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. Learned counsel has further stated that the investigation is going on and two of the co-accused persons have been exonerated by the Investigating Officer and closure report has been filed with respect to them. There are no criminal antecedents of the applicant. Learned counsel for the applicant has also stated that the applicant has co-operated in the investigation and undertakes that she will cooperate in the investigation in future also failing which the State can move appropriate application for cancellation of the anticipatory bail.

Per contra, learned AGA has vehemently opposed the anticipatory bail application but could not dispute the fact that there are no criminal antecedents of the applicant.

Considering the overall facts and circumstances of the case, this Court is of the opinion that the applicant deserves to be granted anticipatory bail in connection with the aforesaid case.

Accordingly, the anticipatory bail application is disposed of with following directions:-

(A) In the event of arrest of the applicant- Smt. Krishna Devi involved in aforesaid case shall be released on anticipatory bail till the submission of police report, if any, under section 173(2) Cr.P.C. before the competent Court on his/her furnishing a personal bond of Rs.50,000/- with two sureties each of the like amount to the satisfaction of the Station House Officer of the police station concerned;

(B) The applicant shall co-operate with the Investigating Officer during investigation and shall report to the Investigating Officer as and when required for the purpose of conducting investigation;

(C) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer; and

(D) The applicant shall not leave India without the previous permission of the Court.

In default or misuse of any of the conditions, the Public Prosecutor/ Investigating Officer/ first informant-complainant is at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant."

6. It is submitted while placing paragraph 14 of the affidavit that the applicant is an old lady aged about 71 years and is suffering from old age diseases including kidney problem. The applicant is a lady and is entitled to the benefit of Section 437 Cr.P.C. The applicant has no criminal history as stated in para 20 and is in jail since 05.03.2025.

7. *Per contra*, learned counsel for the State has opposed the prayer for bail and argued that the applicant is named in the first information report along with other accused persons and there are allegations against her.

8. After having heard learned counsel for the parties and perusing the record, it is apparent that the applicant is mother-in-law of the deceased. General and omnibus allegations have been levelled against the applicant and other accused persons in the first information report. The cause of death of the deceased is asphyxia as a result of antemortem hanging. Shivakant Pandey the husband of the deceased has been granted bail.

9. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

10. Let the applicant- **Smt. Krishna Devi**, be released on bail in the aforesaid case crime number on 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 will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that 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.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure 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 her, in accordance with law, under section 174-A I.P.C.

(v) 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 her in accordance with law and the trial court may proceed against her under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

11. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

12. The bail application is **allowed**.

13. Pending application (s), if any, shall stand disposed of.

Order Date :- 21.3.2025

AS Rathore

(Samit Gopal,J.)