

**Court No. - 78**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 19552 of 2024

**Applicant :-** Manju Devi

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Vijay Prakash Chaturvedi

**Counsel for Opposite Party :-** G.A.

**Hon'ble Samit Gopal,J.**

1. List revised.
2. Heard Sri Vijay Prakash Chaturvedi, learned counsel for the applicant and Sri Birendra Pratap Singh, learned counsel for the State and perused the record.
3. The present bail application under Section 439 Cr.P.C. has been filed by the applicant Manju Devi with a prayer to release her on bail in Case Crime No.316 of 2020, under Sections 498-A, 304-B, 120-B, 352, 504 I.P.C. and 3/4 D.P. Act, Police Station Bansi, District Siddharth Nagar, during the pendency of trial.
4. This is the third bail application. The first bail application of the applicant was rejected by this Court vide order dated 20.07.2021 passed in Criminal Misc. Bail Application No.17355 of 2021 (Manju Devi vs. State of U.P.).
5. The second bail application of the applicant was rejected by this Court vide order dated 14.02.2022 passed in Criminal Misc. Bail Application No. 47865 of 2021 (Manju Devi vs. State of U.P.).
6. Learned counsel for the applicant submits that the applicant is a lady. It is submitted that the trial in the present matter although is

going on but till date only two witnesses have been examined. It is further submitted that the applicant is in jail since 11.10.2020. It is submitted that looking to the facts of the case that the applicant is lady and trial is progressing in a very slow manner, the applicant be thus enlarged on bail.

7. Per contra, learned counsel for the State opposed the prayer for bail and submitted that the first bail application and second bail application of the applicant have been rejected by this Court vide orders dated 20.07.2021 and 14.02.2022. It is submitted that the trial is under progress in which two witnesses have been examined and the said witnesses have supported the prosecution case. It is further submitted that there is no fresh and new ground in the present bail application and as such the same be rejected.

8. After having heard the learned counsels for the parties, perusing the records, it is evident that this is the third bail application of the applicant. The first bail application of the applicant was rejected by this Court vide order dated 20.07.2021. The same reads as under :-

*"Heard Sri Surendra Mohan Mishra, learned counsel for the applicant and Sri S.B. Maurya, learned AGA for the State and perused the material on record.*

*This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Manju Devi seeking enlargement on bail during trial in connection with Case Crime No. 316 of 2020, under Sections 498-A, 304-B, 120-B, 352, 504 IPC and 3/4 D.P. Act, registered at P.S. Bansi, District Siddharth Nagar.*

*Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the applicant is the mother-in-law and is living separately from the deceased and her husband. Annexure 5 being the ration card of the applicant is being placed before the Court to substantiate the said argument. It is argued that the husband of the deceased is in jail. It is argued that the applicant is not involved in the aforesaid case*

and since she was living separately she has no role in the matter but a totally false and concocted First Information Report has been registered implicating all the family members. It is further argued that charge sheet has been submitted against the applicant and two other persons on 06.01.2021 whereas the investigation is pending regarding other accused persons. He further argued that the applicant has no criminal history as stated in para 20 and is in jail since 11.10.2020.

Per contra, learned AGA for the State opposed the prayer for bail and argued that the marriage of the deceased with Dileep Kumar son of Vashidhar was solemnized on 02.05.2019 there is an allegation of demand of dowry by all accused persons. The deceased had called her father on 29.09.2020 and had informed him about the torture being committed on her due to non fulfillment of dowry and later on, on 09.10.2020 she was done to death. It is argued that even the postmortem report shows that the cause of death is due to antimortem hanging and throttling. It is argued that the prayer for bail of the applicant be rejected.

I have heard learned counsel for the parties and have gone through the records, it is apparent that the First Information Report states about the applicant involving herself in demand of dowry even prior to the death of the deceased. There was complaint made by the deceased to her father regarding torture by all the family members after which, after ten days, the deceased was done to death. The accused persons had tried to cremate the dead body but on reaching the place of cremation and calling the police and Dial 100 and the dead body could not be cremated and was saved. I do not find it a fit case for bail.

Considering the totality of the case in particular, nature of evidence available on record, I am not inclined to release the applicant on bail.

The bail application is, accordingly, rejected.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad.

The computer generated copy of such order shall be self attested by the counsel of the party concerned.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

9. The second bail application of the applicant was also rejected by this Court vide order 14.02.2022. The same reads as under :-

*"Heard Sri Chandrakesh Mishra, learned counsel for the applicant, Sri Satish Kumar Singh, learned counsel for the State and perused the material on record.*

*This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- Smt. Manju Devi, seeking enlargement on bail during trial in connection with Case Crime No.316 of 2020, under Sections 498-A, 304-B, 120-B, 352, 504 IPC and Section 3/4 Dowry Prohibition Act, registered at Police Station Bansi, District Siddharthnagar.*

*This is the second bail application.*

*The first bail application of the applicant was rejected by this Court vide order dated 20.07.2021 passed in Criminal Misc. Bail Application No.17355 of 2021, Manju Devi Vs. State of U.P.*

*Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the applicant is the mother-in-law of the deceased. She was living separately from the deceased and her husband. The applicant is an old lady, para 13 of the affidavit has been placed before the Court. After rejection of first bail application, co-accused Vanshidhar who is the father-in-law of the deceased has been granted bail by coordinate Bench of this Court vide order dated 3.9.2021 passed in Criminal Misc. Bail Application No.16091 of 2021, copy of the said order is annexed as annexure no.2 to the affidavit filed in support of bail application. Co-accused Vikas Bhatt who is the brother-in-law (devar) of the deceased has also been granted bail by coordinate Bench of this Court vide order dated 6.10.2021 passed in Criminal Misc. Bail Application No.21409 of 2021, copy of the said order is annexed as annexure no.3 to the affidavit filed in support of bail application, as such the applicant may be enlarged on bail. It has also been pointed out that the applicant is not having any criminal history as stated in para 14 of the affidavit and is in jail since 11.10.2020.*

*Per contra learned counsel for the State has opposed the prayer for bail and argued that the deceased died an unnatural death in her matrimonial house. Cause of death opined by the doctor is strangulation and throttling. The first bail application of the applicant was rejected on merits by this Court vide order dated 20.07.2021. The applicant is named in the FIR and there are allegations against her. No fresh and new grounds on merit has been made out by the applicant in the present bail application, as such prayer for bail be rejected.*

*After hearing the counsel for the parties and perusing the record, it is apparent that the applicant is the mother-in-law of the deceased. The first bail application of the applicant was rejected by this Court on merit by a detailed order and so far as ground of parity is concerned, the same is not binding on this Court. No fresh and new ground has been pleaded or argued.*

*This Court in the case of Pintu Singh Vs. State of U.P., vide order dated 8.2.2021 passed in Criminal Misc. Bail Application No.- 33268 of 2020 has observed in para-7 to 11 thus:-*

*"7. In Special Leave Petition No. 4059 of 2000: Rakesh Kumar Pandey Vs. Munni Singh @ Mata Bux Singh and another, decided on 12.3.2001, the Hon'ble Apex Court strongly denounced the order of the High Court granting bail to the co-accused on the ground of parity in a heinous offence and while cancelling the bail granted by the High Court it observed that:-*

*"The High Court on being moved, has considered the application for bail and without bearing in mind the relevant materials on record as well as the gravity of offence released the accused-respondents on bail, since the co-accused, who had been ascribed similar role, had been granted bail earlier."*

*The Apex Court in the aforesaid case has further observed:-*

*"Suffice it to say that for a serious charge where three murders have been committed in broad day light, the High Court has not applied its mind to the relevant materials, and merely because some of the co-accused, whom similar role has been ascribed, have been released on bail earlier, have granted bail to the present accused respondents. It is true that State normally should have moved this Court against the order in question, but at the same time the power of this Court cannot be fettered merely because the State has not moved, particularly in a case like this, where our conscience is totally shocked to see the manner in which the High Court has exercised its power for release on bail of the accused respondents. We are not expressing any opinion on the merits of the matter as it may prejudice the accused in trial. But we have no doubt in our mind that the impugned order passed by the High Court suffers from gross illegality and is an order on total non-application of mind and the judgement of this Court referred to earlier analysing the provisions of sub-section (2) of section 439 cannot be of any use as we are not exercising power under sub-section (2) of section 439 Cr.P.C."*

*8. In the case of Ramesh and others Vs. State of U.P. (Criminal Appeal No.528 of 1998 in Criminal Misc. Application No.4581 of 2005(B) of Vishram) decided on 1.1.2010, the Division Bench of this Court held that parity cannot be the sole ground for granting bail. It is relevant to reproduce relevant part of the case of Ramesh and others (supra), the Division Bench of this Court has held as under:-*

*"In para 17 in the case of Chander @ Chandra Vs. State of U.P. (1998 U.P. Cr.R. 263), it was held that:-*

*"The grant of bail is not a mechanical act and principle of consistency cannot be extended to repeating a wrong order. If the order granting bail to an identically placed co-accused has been passed in flagrant violation of well*

*settled principle, it will be open to the Judge to reject the bail application of the applicant before him as no Judge is obliged to pass orders against his conscience merely to maintain consistency."*

*9. In the case of Salim Vs. State of U.P.: 2003 ALL. L. J. 625, this Court has held that parity can not be the sole ground for bail.*

*10. Again in the case of Zubair Vs. State of U.P.: 2005(52) ACC 205, this Court observed that there is no absolute hidebound rule that bail must necessarily be granted to the co-accused, where another co-accused has been granted bail. In view of the aforesaid discussion, we are of the considered opinion that parity cannot be the sole ground for granting bail."*

*11. In the case of Mauji Ram vs. State of U.P. and another reported in (2019) 8 SCC 17, Hon'ble Apex Court has held that it must appear from perusal of the order that the Court has applied its mind to the relevant facts in the light of material filed by the prosecution at the time of consideration of bail application. Paragraph 13 of the judgment in Mauji Ram (supra) is being reproduced as under:-*

*"13. Time and again this Court has emphasized the need for assigning the reasons while granting bail (see Ajay Kumar Sharma vs. State of U.P. & Ors., (2005) 7 SCC 507, Lokesh Singh vs. State of U.P. & Anr., (2008) 16 SCC 753 & Dataram Singh vs. State of U.P. & Anr., (2018) 3 SCC 22). Though it may not be necessary to give categorical finding while granting or rejecting the bail for want of full evidence adduced by the prosecution as also by the defence at that stage yet it must appear from a perusal of the order that the Court has applied its mind to the relevant facts in the light of the material filed by the prosecution at the time of consideration of bail application. It is unfortunate that neither the law laid down by this Court, nor the material filed by the prosecution was taken note of by the High Court while considering the grant of bail to the respondents."*

*Looking to the facts and circumstances of the case, I do not find it a fit case for bail, hence, the bail application is rejected."*

*10. The trial in the matter is under progress in which two witnesses have been examined, who have supported the prosecution version. The trial in the present matter is under progress in which witnesses of fact have been examined. The same, thus, shows that trial court is proceeding diligently. There is no fresh and new ground for bail is made out to entertain the present bail application.*

*11. In view of the above, the present bail application is **rejected**.*

12. However, since the trial is of the year 2020 and the applicant is the accused, it is provided that the applicant may file an application for expeditious disposal of the trial before the court concerned within two weeks from today, which may as per its load of work, diary and pendency of cases, pass appropriate orders on the same.

**(Samit Gopal,J.)**

**Order Date :- 17.2.2025**  
Manoj