

Court No. - 80

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 23407 of 2025

Applicant :- Sani Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Anand Kumar Yadav, Rahul Saxena

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra, J.

Heard Mr. Rahul Saxena, the learned counsel for applicant and the learned A.G.A. for state.

Perused the record.

This third application for bail has been file by applicant- Sani Yadav, seeking his enlargement on bail in Case Crime No. 417 of 2022, under section 498A, 304B IPC and Section 3/4 D.P. Act, Police Station- Sasni Gate, District Aligarh during the pendency of trial i.e. Sessions Trial No. 2564 of 2022 (State Vs Soni Yadav and Others) now pending in the Court of A.D.J.-5, Aligarh

The first bail application of applicant was rejected by this court by a detailed order dated 28.10.2023 passed in Criminal Misc. Bail Application No. 39775 of 2023 (Sani Yadav Vs. State of U.P). Thereafter, applicant filed repeat application for bail i.e. Criminal Misc. Bail Application No. 28460 of 2024 (Sani Yadav Vs. State of U.P.) which was rejected by this Court vide order dated 8.8.2024. For ready reference the order dated 8.8.2024 is reproduced herien under:

"Heard Mrs. Shruti Malviya, the learned counsel for applicant and the learned A.G.A. for State.

This repeat application for bail has been filed by applicant Sani Yadav seeking his enlargement on bail in Case Crime No.417 of 2022, under Sections 498-A, 304-B IPC and Section 3/4 Dowry Prohibition Act, police station Sasni Gate, district Aligarh, during the pendency of trial i.e. Sessions Trial No.2564 of 2022 (State Vs. Sani Yadav) and now pending in the court of Additional Sessions Judge, Court No.5, Aligarh.

Perused the record.

Record shows that first bail application of applicant was rejected by this Court vide order dated 28.10.2023 passed in Criminal Misc. Bail Application No.39775 of 2023 (Sani Yadav Vs. State of U.P). For ready reference, the same is reproduced herein-under :-

"1. Heard Mr. Yogesh Narayan Shukla, the learned counsel for applicant and the learned A.G.A. for State.

2. Perused the record.

3. This application for bail has been filed by applicant-Sani Yadav seeking his enlargement on bail in Case Crime No. 417 of 2022, under Sections 498-A, 304-

B IPC and Sections 3/4 Dowry Prohibition Act, Police Station-Sasni Gate, District-Aligarh during the pendency of trial.

4. Record shows that in respect of an incident, which is alleged to have occurred on 20.08.2022, a prompt FIR dated 20.08.2022 was lodged by first informant-Ranveer Singh Yadav (father of the deceased) and was registered as Case Crime No. 417 of 2022, under Sections 498-A, 304-B IPC and Sections 3/4 Dowry Prohibition Act, Police Station-Sasni Gate, District-Aligarh. In the aforesaid FIR, 3 persons namely - (1) Sani Yadav (husband), (2) Dharmraj Yadav (Father-in-law) and (3) Rajrani (Mother-in-law) of the deceased have been nominated as named accused.

5. The gravamen of the allegations made in the FIR is to the effect that marriage of Dolly @ Madhuri (daughter of the first informant) was solemnized with Sani Yadav i.e. applicant herein on 27.11.2020/30.11.2021. At the time of marriage, sufficient amount of goods and dowry were given. However, in spite of above, demand of additional dowry to the tune of Rs. 4 lacs and a 4 wheeler car was raised. As the additional demand of dowry and a 4 wheeler car was not fulfilled, physical and mental cruelty was committed upon the deceased. Ultimately, the daughter of first informant was put to death.

6. After above-mentioned FIR was lodged, Investigating Officer proceeded with statutory investigation of concerned case crime number in terms of Chapter-XII Cr.P.C. The inquest (Panchayatnama) of the body of deceased was conducted. In the opinion of the witnesses of inquest (Panch witnesses), the nature of death of deceased was categorized as suicidal and the cause of death of deceased was said to be ante-mortem hanging. Thereafter, the post mortem of the body of deceased was conducted. The Autopsy Surgeon, who conducted autopsy of the body of deceased, opined that the cause of death of deceased is Asphyxia as a result of ante-mortem strangulation. The Autopsy Surgeon found following ante-mortem injuries on the body of deceased:-
"Ante-mortem Injuries not seen on her body except a ligature mark on neck region.

Ligature mark : length of ligature mark is 22 cm width 1 ch, gap in ligature mark's 8 cm on back of neck. Distance of ligature mark from Rt. ear is 4 cm from Lt. ears, 5.5. cm & chin is 5 cm Meets circumference is 32 cm On cut section trachea is clear. Hyoid is intact is not impression is visible on Lt. side under lined soft tissue.

Ligature mark is horizontal continuous and below thyroid. Hands are cleaned. Ligature mark is deep in nature."

8. During course of investigation, Investigating Officer examined first informant and other witnesses under Section 161 Cr.P.C. Witnesses so examined have supported the FIR. On the basis of above and other material collected by Investigating Officer during course of investigation, he came to the conclusion that complicity of all the named accused is established in the crime in question. Accordingly, Investigating Officer submitted the charge sheet dated 28.10.2022 whereby all the named accused have been charge sheeted under Sections 498-A, 304-B IPC and Sections 3/4 Dowry Prohibition Act.

9. Learned counsel for applicant contends that though the applicant is the husband of the deceased, a named as well as charge sheeted accused yet he is liable to be enlarged on bail. Applicant is innocent. He has been falsely implicated in the crime in question. Much emphasis was laid on the post mortem report of the deceased in support of the submission that except for the ligature mark, no other external ante-mortem injury was found on the body of deceased.

10. 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 07.10.2022. As such, he has undergone almost 1 year and 1/2 months of incarceration. The police report in terms of Section 173(2) Cr.P.C. has already been submitted. As such, the entire evidence sought to be relied upon by the prosecution against applicant stands crystallized. However, up to this stage, no such circumstance has emerged necessitating the custodial arrest of the applicant during the pendency of trial. On the above premise, he submits 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.

11. Per contra, the learned A.G.A. has opposed the prayer for bail. He submits that since applicant is the husband of the deceased, a named/charge sheeted accused, therefore, he does not deserve any indulgence by this Court. The marriage of the applicant was solemnized with the deceased on 27.11.2020/30.11.2021. The occurrence giving rise to present criminal proceedings has occurred on 20.08.2022 i.e. even before expiry of 2 years from the date of marriage. As such, the death of the deceased is a dowry death. As per the medical opinion, the death of deceased is homicidal and the cause of death of deceased is strangulation. As such, the death of deceased was caused by a deliberate act. Applicant is an inmate of the house and also the husband of the deceased, therefore, the burden is upon the applicant to not only explain the manner of occurrence but also his innocence in terms of Sections 106 and 113-B of the Evidence Act. However, the applicant has miserably failed to discharge the said burden up to this stage. It is thus contended that no sympathy be shown by this Court in favour of applicant.

12. When confronted with above, the learned counsel for applicant could not overcome the same.

13. Having heard, the learned counsel for applicant, the learned A.G.A. for State, upon perusal of record, evidence, nature and gravity of offence, complicity of accused, accusations made coupled with the fact that the occurrence giving rise to present criminal proceedings has occurred prior to 7 years of marriage, therefore, the death of deceased is a dowry death, the applicant is an inmate of the house and also the husband of deceased, therefore, by reason of above, the burden is upon the applicant to not only explain the manner of occurrence but also his innocence in terms of Sections 106 and 113-B of the Evidence Act, however, the applicant has miserably failed to discharge the said burden up to this stage, as per the medical opinion, the cause of death of deceased is ante-mortem strangulation which clearly denote that there was a deliberate act performed to cause the death of deceased on account of medical opinion, there is possibility of awarding the maximum sentence under Section 304-B IPC, therefore, irrespective of the varied submissions urged by the learned counsel for applicant in support of the present application for bail, but without making any comments on the merits of the case, this Court does not find any good or sufficient ground to enlarge the applicant on bail.

14. As a result, present application for bail fails and is liable to be rejected.

15. It is accordingly rejected."

Learned counsel for applicant has filed a supplementary affidavit in Court today, which is taken on record. With reference to the statement of PW-3 Awadhesh Yadav, who is the brother of the deceased, it is sought to be urged by the learned counsel for applicant that the death of deceased is a suicidal death and not homicidal. She, therefore, submits that the opinion expressed by the Doctor in the post-mortem report dated 20.08.2020 whereby he has opined that the cause of death of the deceased is strangulation is prima facie erroneous. On the above premise, it is thus urged that applicant is liable to be enlarged on bail.

Even otherwise, applicant is a man of clean antecedents having no criminal history to his credit except the present one. The applicant is in jail since 07.10.2022. As such, he has undergone more than one year and ten months of incarceration. The police report under Section 173(2) CrPC has already been submitted. As such the entire evidence sought to be relied upon by the prosecution against applicant stands crystalized. However, up to this stage, no such circumstance has emerged on the basis of which it can be said that custodial arrest of applicant is absolutely necessary during the pendency of trial. She, therefore, contends that the 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.

Per contra, the learned A.G.A. has opposed the prayer for bail. He submits that until and unless the Doctor who has submitted the post-mortem report dated 20.08.2020 is specifically cross-examined on the issue as to on what basis he opined that the cause of death of the deceased is strangulation, no inference regarding cause of death of deceased can be drawn as per the deposition of PW-3. On the above premise, the learned A.G.A. thus submits that in view of

above no new, fresh or sufficient ground has emerged so as to enlarge the applicant on bail.

Having heard the learned counsel for applicant, the learned A.G.A. for State, upon perusal of material brought on record, nature and gravity of offence, evidence, complicity of the accused, accusation made coupled with the fact that the objections raised by the learned A.G.A. in opposition to the present repeat application for bail could not be dislodged by the learned counsel for applicant therefore irrespective of the submissions urged by the learned counsel for applicant but, without making any comments on the merits of the case, this Court does not find any new, good or sufficient ground to enlarge the applicant on bail.

Consequently, in view of above but without making any comment on the merits of the case, present repeat application for bail fails and is liable to be rejected. It is accordingly rejected. "

Learned counsel for applicant submits that though applicant is husband of the deceased a named and charge sheeted accused, however in the facts and circumstances of the case as have now emerged on record, applicant is liable to be enlarged on bail.

In furtherance of aforesaid submission, the learned counsel for applicant submits that the Doctor who conducted autopsy of the body of the deceased, has deposed before Court below as P.W.5. The autopsy surgeon has not fully supported the post mortem report. As per the deposition of aforesaid witness, injury sustained by the deceased could have been caused by hanging also. Learned counsel for applicant thus submits that since the prosecution story does not stand corroborated by the material evidence on record, therefore, applicant is liable to be enlarged on bail.

Even otherwise, applicant is a man of clean antecedents, having no criminal history to his credit, except the present one. Applicant is in jail since 7.10.2022, as such he has undergone more than two years and Nine months of incarceration. The police report in terms of Section 173 (2) Cr.P.C. has already been submitted against applicant, as such, the entire evidence sought to be relied upon by the prosecution against applicants stands crystalized. However, upto this stage no such incriminating circumstance has emerged necessitating the custodial arrest of applicant. It is thus urged that applicant is liable to be enlarged on bail. In case the applicant is enlarged on bail, during the pendency of trial then in that eventuality he shall not misuse the liberty of bail and shall co-operate with the trial.

Per contra, the learned A.G.A. has opposed the prayer for bail. He contents that since applicant is a named/charge sheeted accused, therefore he does not deserve any indulgence by this court. Even though this Court is a superior Court yet dictates of prudence require that this Court should not evaluate and appreciate the

evidence which has emerged during the course of trial as any observation made by this Court shall pre-empt the trial and may affect the prosecution or the defence. On the above conspectus, the learned A.G.A. contends that since no new, good or sufficient ground has emerged, this repeat application for bail is liable to be rejected.

When confronted with above, the learned counsel for applicant could not overcome the same.

Having heard the learned counsel for applicant the learned A.G.A. for state, and upon perusal of record, acquisition made as well as the complicity of applicant coupled with the fact that the objections raised by learned A.G.A. in opposition to this third application for bail could be dislodged by learned counsel for applicant with reference to record, therefore, irrespective of the varied submissions urged by the learned counsel for applicant in support of this repeat application for bail, this court does not find any new, good or sufficient ground so as to enlarge the applicant on bail.

In view of above, this repeat application for bail fails and is liable to be rejected.

It is accordingly **rejected**.

Order Date :- 10.7.2025

Arshad