2026:AHC:228447

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 39659 of 2025

Usha Devi

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Counsel for Applicant(s) : Brijesh Kumar Yadava, Onkar Singh, Sachin Malik

Counsel for Opposite Party(s) : Deepak Kumar Singh, G.A.

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with

CRIMINAL MISC. BAIL APPLICATION No. - 42107 of 2025

Usha Devi

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

Court No. - 74

HON'BLE SAMIT GOPAL, J.

1. List revised.

2. These two bail applications are of the same accused in the same case crime number and thus are being decided by a common order.

3. Heard Sri Onkar Singh Malik, learned counsel for the applicant, Sri Deepak Kumar Singh, learned counsel for the first informant and Sri Bade Lal Bind, learned counsel for the State and perused the material on record.

Order on Bail Application No. 39659 of 2025

4. This second bail application under Section 483 BNSS has been filed by the applicant Usha Devi seeking enlargement on bail during trial in connection with Case Crime No. 77 of 2025, under Section 85, 80 BNS and Section 3/4 D.P. Act, registered at P.S. Kotwali Karvi, District Chitrakoot.

5. The first bail application of the applicant was rejected by this Court vide order dated 04.04.2025 passed in Crl. Misc. Bail Application No. 10857 of 2025 (Usha Devi Vs. State of U.P.). The said order reads as under:

"1. List revised.

2. Heard Ms. Sakshi Jaiswal, learned counsel for the applicant, Sri Ajay Singh, learned AGA-I for the State and perused the material on record.

3. This bail application under Section 483 BNSS has been filed by the applicant Usha Devi, seeking enlargement on bail during trial in connection with Case Crime No. 77 of 2025, under Sections 85, 80 BNS and 3/4 D.P. Act, registered at P.S. Kotwali Karvi, District Chitrakoot.

4. The FIR of the matter was lodged on 07.02.2025 by Vipin Kumar against the applicant and five other persons alleging therein that Ravina Patel was married to Anuj Patel the devar of the applicant on 23.04.2024 in which he had given Rs. 10 lakh as cash, gifts, streedhan and complete household articles. After marriage the accused persons started taunting the deceased for dowry and there was a demand of a four wheeler. Daughter of the informant told him many times about it after which there was a demand of Rs. 5 lakh as dowry which could not be fulfilled and she was being tortured. On 06.02.2025 in the night, his daughter was assaulted by the accused persons which was told by her on phone and in the night, the accused persons due to non fulfillment of dowry burnt her due to which she died. He received an information on 07.02.2025 and then went there. Report be lodged and action be taken.

5. Learned counsel for the applicant submitted that the applicant is the jethani of the deceased. It is submitted that the applicant lives separately from the deceased and her husband. It is submitted that the allegation of demand of dowry, torture and assault on the deceased in the FIR is false and incorrect. It is submitted that there was never any demand of dowry. It is submitted that the applicant is a lady. It is further submitted that the applicant has no criminal history as stated in para 30 of the affidavit and is in jail since 10.02.2025.

6. Per contra, learned counsel for the State opposed the prayer for bail and submitted that the deceased was found to have received burn injuries over the whole body. The cause of death was opined by the doctor as asphyxia due to antemortem throttling and followed by the postmortem burn. It is submitted that the same goes to show that initially the deceased was murdered and then she was set ablaze. It is submitted that the present case as such is in which the incident which is alleged to have taken, has not been done by one person. He has relied upon the judgment of the Apex Court in the case of Shabeen Ahmad Vs. State of U.P. and another : SLP (Criminal) No. 15156 of 2024, decided on 03.03.2025 and while placing para 15 of the same has submitted that the gravity of the offence also needs to be looked into. It is submitted that the deceased died within 10 months of her marriage. It is submitted that there is no reason for false implication of the applicant and as such the prayer for bail of the applicant be rejected.

7. After having heard learned counsels for the parties and perusing the records, it is evident that the applicant is named in the FIR. The deceased died within 10 months of her marriage in her matrimonial house. The death is an unnatural. The applicant is the jethani of the deceased. The cause of death is opined as asphyxia as a result of antemortem throttling and followed by postmortem burn which goes to show that she was initially murdered by throttling her and then she was set ablaze. I do not find it a fit case for bail.

8. Considering the totality of the case in particular, nature of evidence available on record, I am not

inclined to release the applicant on bail.

9. The bail application is, accordingly, rejected."

6. On 12.02.2026 the following order was passed by this Bench:

"1. List revised.

2. Heard Sri Onkar Singh, learned counsel for the applicant and Sri Ramesh Shukla, learned counsel for the State and perused the material on record. Sri Deepak Kumar Singh, learned counsel for the first informant is not present even when the matter is taken in the revised list.

3. This matter has been taken up at 2 PM as a mentioned matter on a mention made by learned counsel for the applicant in the morning that the applicant is a lady and while being in custody she has given birth to a male child in November, 2025 and the child is with her in jail and thus the matter be taken up as a mentioned matter.

4. In the connected matter Sri Rajiv Dwivedi, Advocate is present for the applicant in which also learned counsel for the first informant is not present but learned counsel for the State is present.

5. Since this matter has been taken up on a mention and there is a counsel appearing on behalf of the first informant who is not present, this Court adjourns the same.

6. The matter is adjourned.

7. Let the matter be listed on 24.02.2026 along with connected matters.

8. In the meantime, a report be called for from the Superintendent of Police, District Jail, Chitrakoot regarding the fact of birth of a child of the applicant Usha Devi while being in jail, as to whether the child is with her in jail and the well-being of both the persons by the next date."

7. The office through its report dated 16.03.2026 has placed on record a report received by it as Flag 'A'. This Court has perused the said report which is dated 24.02.2026 of the CJM, Chitrakoot which encloses with it a report received from the District Jail, Chitrakoot. This Court has perused the said report dated 24.02.2026 of Jail Superintendent, District Jail, Chitrakoot. The said report states that the applicant was brought to the said jail on 10.02.2025 and then on 14.11.2025 on having labour pain she was sent to the District Hospital, Chitrakoot where she gave birth to a child. The report further states that the child is normal and the required facilities, diet is being provided along with required vaccination. Along with the said report a report of Jail Doctor, District Jail, Chitrakoot, the medical report and its enclosure are annexed. The report of the Medical Officer, District Jail, Chitrakoot (which is undated) has also been perused which states of the applicant has given birth to a child on 14.11.2025 and the child being is in a healthy condition and further appropriate care is being taken along with the required diet. The documents of the hospital

have been annexed with it.

8. Learned counsel for the applicant submitted that the applicant has been falsely implicated in the present case. It is submitted that looking to the fact that the applicant is a lady and has given birth to a child while being in continuous custody and also that the child is with her in jail since birth, the prayer for bail of the applicant be considered. The the applicant has no criminal history as stated in para 27 of the affidavit and is in jail since 10.02.2025.

9. Per contra, learned counsel for the first informant and learned counsel for the State fairly did not oppose the said submission and submitted that it is the factual position in the matter as on date but further submitted that in so far as the merits of the case is concerned, the same has been previously considered by this Court and an order dated 04.04.2025 was passed by which after considering the matter in detail and on merits, the bail application of the applicant was rejected. It is submitted that however the submission on humanitarian ground is not being opposed.

10. After having heard learned counsels for the parties and perusing the records, it is evident that the first bail application of the applicant has been rejected by this Court on merits by a detailed order dated 04.04.2025. It has been submitted that the applicant is the jethani of the deceased and while being in jail she has given birth to a child. The said fact is fortified from the report dated 24.02.2026 of the Superintendent District Jail, Chitrakoot, an undated report of the Medical Officer, District Jail, Chitrakoot enclosed with the reports of the Jail Superintendent.

11. Looking to the said facts only and not on going into the merits of the matter, further coupled with the fact that the applicant has no criminal history and is in jail along with the newly born child, this Court is of the view that the applicant may be enlarged on bail.

Order on Bail Application No. 42107 of 2025

12. This bail application under Section 483 BNSS has been filed by the applicant Usha Devi seeking enlargement on bail during trial in connection with Case Crime No. 77 of 2025, under Sections 103(1), 238 BNS, registered at P.S. Kotwali Karvi, District Chitrakoot.

13. The applicant had previously filed a Criminal Misc. Bail Application No. 10857 of 2025 (Usha Devi Vs. State of U.P.) before this Court in same case crime number under Sections 85, 80 BNS and 3/4 D.P. Act which stood rejected vide order dated 04.04.2025. Subsequently she filed a second bail application being Criminal Misc. Bail Application No. 39659 of 2025 which has been allowed today i.e. 03.11.2026 by this Court and she has been directed to be released on bail. This first bail application has been filed by the applicant in the same case crime under

Sections 103(1), 238 BNS.

14. It is submitted by learned counsel for the applicant that charge sheet in the matter has been filed against the applicant and other co-accused under Sections 85, 80(2), 103(1), 238 BNS and 3/4 D.P. Act and thus the present bail application has been filed only under Sections 103(1), 238 BNS. It is submitted that the bail application is being pressed on the same ground as has been mentioned in Criminal Misc. Bail Application No. 39659 of 2025 which has been allowed today i.e. 03.11.2026.

15. Learned counsel for the State and first informant has also been heard.

16. In view of the same reasons given in the order dated 03.11.2026 passed in Criminal Misc. Bail Application No. 39659 of 2025 (Usha Devi Vs. State of U.P.) this present bail application is also allowed.

17. Let the applicant **Usha 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 84 BNSS, 2023 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 209 BNS, 2023.

(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 351 BNSS, 2023. 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 269

BNS, 2023.

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

(vii) It is however made clear that the applicant shall not seek unnecessary adjournments in the trial of the matter.

18. 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.

19. Both the bail applications are **allowed**.

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

(Samit Gopal,J.)

November 3, 2026
M. ARIF

Digitally signed by :-
MOHAMMAD ARIF
High Court of Judicature at Allahabad