

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46379 of 2021

Applicant :- Mahadevi

Opposite Party :- State of U.P.

Counsel for Applicant :- Akash Mishra, Rakesh Kumar Verma, Ram Jatan Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot, J.

The Chief Medical Officer, Etawah has filed an affidavit. In the affidavit it has been stated that post mortem forms taken out do not depict the status of hyoid bone. However the same shall be corrected in future. This Court find that in a number of cases the post mortem forms does not depict the status of the hyoid bone. This is essentially in many medico cases.

The Principal Secretary, (Health & Family Welfare) Department of Health & Family Welfare, Government of Uttar Pradesh, is directed to ensure that in all post mortem forms taken out by the competent authorities the status of the hyoid bone shall be specifically reflected.

Sri I.P. Srivastava, learned AGA shall communicate this order to the Principal Secretary, (Health & Family Welfare) Department of Health & Family Welfare, Government of Uttar Pradesh for compliance. The compliance report shall be submitted by the Principal Secretary, (Health & Family Welfare) Department of Health & Family Welfare, Government of Uttar Pradesh, before the Registrar General of this Court

within a period one month.

The Registrar General shall inform the Court about the report in chamber.

Heard Sri Ram Jatan Yadav, learned counsel for the applicant and learned AGA for the State.

A first information report was lodged against the applicant as Case Crime No.264 of 2021, under Sections 498-A,304B IPC and Section 3/4 Dowry Prohibition Act, Police Station Ekdil, District Etawah.

The bail application of the applicant was rejected by learned Sessions Judge, Etawah on 7.10.2021.

The applicant is in jail since 16.9.2021, pursuant to the said F.I.R.

Sri Ram Jatan Yadav, learned counsel for the applicant contends that the applicant has been falsely implicated in the present case. The applicant is the mother-in-law of the deceased. The applicant is not the perpetrator of the offence but in fact is bereaved by the death of her daughter-in-law. The applicant never tortured nor did she harass the deceased for dowry. The applicant prays for peace of the departed soul. However, for the purposes of this bail application it is submitted that the deceased was a temperamental and an obstinate lady. She was prone to extreme reactions even over minor matrimonial issues. On the fateful day, the victim committed suicide by hanging herself in a fit of rage. The applicant did not abet or instigate the deceased to

commit suicide. The postmortem report records the cause of death as asphyxia due to ante-mortem hanging. The applicant has been falsely nominated out of vindictiveness. Learned counsel for the applicant contends that the applicant does not have any criminal history apart from this case. Lastly it is contended by the learned counsel for applicant that the applicant shall not abscond and will fully cooperate in the criminal law proceedings. The applicant shall not tamper with the evidence nor influence the witnesses in any manner.

Learned AGA for the State could not satisfactorily dispute the aforesaid submissions from the record. Learned AGA for the State does not dispute the fact that the applicant does not have any criminal history apart from this case.

Courts have taken notice of the overcrowding of jails during the current pandemic situation (Ref.: Suo Motu Writ Petition (c) No. 1/2020, Contagion of COVID 19 Virus in prisons before the Supreme Court of India). These circumstances shall also be factored in while considering bail applications on behalf of accused persons.

I see merit in the submissions of learned counsel for the applicant and accordingly hold that the applicant is entitled to be enlarged on bail.

In the light of the preceding discussion and without

making any observations on the merits of the case, the bail application is allowed.

Let the applicant- Mahadevi be released on bail in Case Crime No.264 of 2021, under Sections 498-A,304B IPC and Section 3/4 Dowry Prohibition Act, Police Station Ekdil, District Etawah, to the satisfaction of the court concerned subject to the following conditions:

(i) The applicant will not tamper with the evidence during the trial.

(ii) The applicant will not influence any witness.

(iii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The applicant shall not directly or indirectly make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court to any police officer or tamper with the evidence.

In case of breach of any of the above condition, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 16.3.2022

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