

# **Sudha Devi vs State Of U.P. Thru. Prin. Secy. (Home) ... on 13 January, 2025**

**Author: Rajesh Singh Chauhan**

**Bench: Rajesh Singh Chauhan**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:2186

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 208 of 2025

Applicant :- Sudha Devi

Opposite Party :- State Of U.P. Thru. Prin. Secy. (Home) Lko

Counsel for Applicant :- Naveen Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan,J.

1. Heard Naveen Kumar Pandey, learned counsel for the applicant and Shri Diwakar Singh, learned Additional Government Advocate for the State.

2. As per learned counsel for the applicant, the present applicant (Sudha Devi) is languishing in jail since 21.09.2024 in Case Crime No.422 of 2024, under Sections 80 (2), 61 (2) & 85 of Bhartiya Nyaya Sanhita, 2023 (henceforth referred to as the "B.N.S.") and Section 3/4 of Dowry Prohibition Act, Police Station-Colonelganj, District-Gonda.

3. Learned counsel for the applicant has submitted that the present applicant has falsely been implicated in this case as she has not committed any offence as alleged in the prosecution story.

4. Attention has been drawn towards the impugned First Information Report (in short F.I.R.) wherein the general allegation for demanding dowry and torture have been levelled against the entire family including father's sister (Buaa), her husband (Fufaa) and one Advocate who happens to be a relative of Buaa. The present applicant is a mother-in-law of the deceased. She was having cordial relations with her daughter-in-law and she has never demanded any dowry from her or her family members. The marriage of the deceased with her son was a love marriage and her son and his wife (since deceased) were living independently in the same house and the present applicant has nothing to do with the family affairs of her son and his wife. As per information so received from the applicant that her son was living at Jammu to earn livelihood and his wife (since deceased) was also willing to live at Jammu but on account of his financial condition he could not bring her to Jammu and on such dispute she committed suicide. However, this story may be verified during the course of trial. While putting down the deceased from rope where the deceased hanged she might have received some injuries inasmuch as as per the post-mortem report the deceased received some minor injuries to neck around which might be caused on account of hanging and some more minor injuries on other part of the body. As per the inquest report, there was no apparent injury on the body of the deceased.

5. Learned counsel for the applicant has stated that there is no criminal history of any kind whatsoever against the present applicant. He has undertaken on behalf of the present applicant that the applicant shall not misuse the liberty of bail, if so granted by this Court, and there is no apprehension of absconding her and she shall abide by all terms and conditions of the bail order and shall cooperate with the investigation/ trial proceedings properly. Besides, the present applicant being a lady may be given benefit of Section 480 B.N.S.S.

6. On the other hand, learned Additional Government Advocate has, however, opposed the prayer for bail of the present applicant by submitting that since the role of the present applicant was found in the commission of crime, therefore, she is not entitled for grant of bail, but he could not dispute the aforesaid contention of learned counsel for the applicant.

7. Having heard learned counsel for the parties and having perused the material available on record; considering the fact that the general allegation for demanding dowry and torture have been levelled against the entire family members; the present applicant is a mother-in-law of the deceased and she was having cordial relations with her daughter-in-law; the marriage of the deceased with her son was a love marriage and her son and his wife (since deceased) were living independently in the same house and the present applicant has nothing to do with the family affairs of her son and his wife; as per the inquest report, there was no apparent injury on the body of the deceased; there is no criminal history against the present applicant and the undertaking that the applicant shall not misuse the liberty of bail and she shall abide by all terms and conditions of the bail order, if so granted, and shall cooperate in the investigation/ trial proceedings properly; the fact that the present applicant being a lady may be given benefit of Section 480 B.N.S.S., without expressing any opinion on merits of the case, I am of the view that the present applicant may be released on bail in

this case.

8. Accordingly, the instant bail application is allowed.

9. Let the applicant (Sudha Devi) be released on bail in the aforesaid case crime number on her furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall file an undertaking to the effect that she shall not seek any adjournment on the dates 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.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through her counsel. In case of her absence, without sufficient cause, the trial court may proceed against her under Section 229-A IPC/269 of the B.N.S., 2023.

(iii) 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./84 of B.N.S.S., 2023 is issued and the 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 IPC/208 of the B.N.S., 2023.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C./351 of B.N.S.S., 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. The present applicant shall not leave the country without prior permission of the Court.

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[Rajesh Singh Chauhan,J.] Order Date :- 13.1.2025 Suresh/