

Wariyarshri vs State Of U.P. on 19 March, 2025

Author: Samit Gopal

Bench: Samit Gopal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:39424

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9185 of 2025

Applicant :- Wariyarshri

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajendra Prasad Pandey, Rakesh Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal, J.

1. List revised.

2. Heard Sri Sunil Srivastava, Advocate holding brief of Sri Rakesh Kumar Pandey, learned counsel for the applicant, Sri Ram Prakash Shukla, learned counsel for the State and perused the material on record.

3. This bail application under Section 439 of Code of Criminal Procedure/483 BNSS has been filed by the applicant Wariyarshri, seeking enlargement on bail during trial in connection with Case Crime No. 431 of 2024, under Sections 351(3), 85, 80(2) BNS and Section 3/4 D.P. Act, registered at P.S. Bhogaon, District Mainpuri.

4. Learned counsel for the applicant submits that the applicant is the mother-in-law of the deceased Smt. Dimple and she has been falsely implicated in the present case. It is submitted that the deceased was although found to have received one ligature mark and one reddish contusion but the said contusion did not contribute to her death and the cause of death was opined asphyxia as a result of hanging. It is further submitted that Yogendra @ Babloo the husband of the deceased is in jail. It is submitted further that co-accused Rajveer Singh the father-in-law of the deceased has been granted bail by a co-ordinate Bench of this Court vide order dated 28.02.2025 passed in Crl. Misc. Bail Application No. 3349 of 2025 (Rajveer Singh Vs. State of U.P.), copy of the order is annexed as annexure 6 to the affidavit. The same reads as under:

"1. Heard learned counsel for the applicant as well as learned Additional Government Advocate representing the State.

2. The instant bail application under Section 483 of B.N.S.S. has been filed on behalf of the applicant with a prayer to release him on bail in Case Crime No. 431 of 2024, under Sections 351(3), 80(2), 85 of B.N.S. and Section 3/4 Dowry Prohibition Act, Police Station Bhogaon, District Mainpuri, during the pendency of trial.

3. As per the prosecution case, in brief, complainant who is brother of the deceased-Dimple lodged a first information report on 02.11.2024 against Yogendra alias Bablu, Rajveer Singh, Variyar Shri, Vineeta and Pankaj Kumari, who are husband, father-in-law, mother-in-law, sister-in-law (jethani) and sister-in-law (nanad) of the deceased respectively making allegations inter alia that marriage of his sister Dimple was solemnized on 26.05.2022 with Yogendra alias Bablu. In the marriage informant had given sufficient dowry but his sister's in-laws were not satisfied and there was consistent demand of a Bullet motorcycle and a gold chain. On account of non-fulfilment of said demand, his sister was beaten and got injured. Thereafter, she was taken to hospital, where doctors declared her dead. Information about the said incident was given by father-in-law of his sister on 30.10.2024 at about 9:30 P.M. On the said information he reached at the spot, but did not find anyone in the house.

4. It is argued by learned counsel for the applicant that the applicant is father-in-law of the deceased. The allegation of demand of dowry and harassment of the deceased in her matrimonial home are wholly false and based upon the concocted facts. Referring the statement of the complainant, it is submitted that the complainant during investigation has stated that about two-three months ago husband of his sister started beating and harassing his sister after drinking alcohol and demanding a Bullet motorcycle. On account of said reason, deceased committed suicide by hanging herself. Much emphasis has been given by contending that sincere efforts have been made to save the life of the deceased because after the incident, she was immediately brought to hospital and got admitted on 30.10.2024 at 19.50 hours in Medical College, Safa Etawah and thereafter applicant gave information to the complainant on 30.10.2024 at 9.30 P.M. Deceased died during her treatment on 31.10.2024 at

12.22 A.M. Information about her death was given by ward-boy of the Medical College, on which police came and conducted inquest proceeding. During inquest proceeding the complainant and his other relatives were very much present but they did not lodge F.I.R. on that day, but the same was lodged on 02.11.2024 in order to settle his personal score. Referring the postmortem report, it is submitted that cause of death of the deceased was asphyxia due to ante-mortem hanging. Lastly, it is submitted by learned counsel for the applicant that there is no chance of the applicant of fleeing away from the judicial process or tampering with the prosecution evidence. The applicant is languishing in jail since 25.12.2024 having no criminal history to his credit and in case he is released on bail, he will not misuse the liberty of bail and will cooperate in the early disposal of the case.

5. Per contra, learned Additional Government Advocate for the State opposed the prayer for bail of the applicant by contending that deceased died her unnatural death within two and a half years of her marriage, therefore, in the light of presumption under Sections 117 and 118 of Bharatiya Sakshya Adhiniyam, 2023, bail application of the applicant is liable to be rejected.

6. Having heard learned counsel for the parties and examined the matter in its entirety, I find that general allegation of demand of dowry has been levelled without attributing any specific role against the applicant. The cause of death of the deceased is due to asphyxia as a result of ante-mortem hanging. The complainant in his statement has made specific allegation of beating the deceased against her husband, hence case of husband of the deceased is distinguishable from the case of applicant. Information about the death of the deceased was promptly given by the applicant to the brother of the deceased, which shows his natural conduct which is also relevant for considering bail.

7. Considering the over all facts and circumstances of the case as well as keeping in view the nature of the offence, evidence, complicity of the accused and submissions of the learned counsel for the parties, I am of the view that the applicant has made out a fit case for bail. Hence, the bail application is hereby allowed.

8. Let the applicant-Rajveer Singh, 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:

(i) That the applicant shall cooperate with the expeditious disposal of the trial and shall regularly attend the court unless inevitable.

(ii) That the applicant shall not directly or indirectly make any 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 or to any police officer or tamper with the evidence.

(iii) That after his release, the applicant shall not involve in any criminal activity.

(iv) The identity, status and residential proof of sureties will be verified by court concerned before the release of the applicant on bail.

9. In case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail of the applicant.

10. It is made clear that the observations contained in the instant order are confined to the issue of bail only and shall not affect the merit of the trial."

5. It is further submitted that the applicant has no criminal history as stated in para 22 of the affidavit and is in jail since 29.01.2025. It is submitted further that the applicant is a lady and she is entitled to the benefit of Section 480 BNSS.

6. Per contra, learned counsel for the State opposed the prayer for bail but could not dispute the arguments as aforesaid whereas it was argued that the marriage of the deceased with Yogendra @ Babloo was solemnized on 26.05.2022 and the incident in the present case is of 30.10.2024 which is within seven years of marriage.

7. After having heard learned counsels for the parties and perusing the records, it is evident that the applicant is the mother-in-law of the deceased. The cause of death is asphyxia as a result of antemortem hanging. Yogendra @ Babloo the husband of the deceased is in jail. Co-accused Rajveer Singh the father-in-law of the deceased has been granted bail.

8. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

9. Let the applicant Wariyarshri, 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.

10. 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.

11. The bail application is allowed.

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

Order Date :- 19.3.2025 M. ARIF (Samit Gopal, J.)