

## **Ram Dular vs State Of U.P. on 9 May, 2022**

**Author: Sanjay Kumar Pachori**

**Bench: Sanjay Kumar Pachori**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10722 of 2022

Applicant :- Ram Dular

Opposite Party :- State of U.P.

Counsel for Applicant :- Brijesh Kumar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Pachori,J.

Learned counsel for the applicant is permitted to correct the prayer clause during course of the day.

Heard Sri Brijesh Kumar Sharma, learned counsel for the applicant, learned A.G.A. for the State and perused the material on record.

The present bail application has been filed on behalf of applicant Ram Dular under Section 439 of the Code of Criminal Procedure, with a prayer to release him on bail in Case Crime No. 116 of 2019 for offence punishable under Sections 498-A, 304-B I.P.C. and Section 3/4 D.P. Act registered at Police Station Rampur, District Jaunpur, during the pendency of the trial after rejecting the bail application of the applicant by the Additional Sessions Judge- Vth, Jaunpur, vide order dated 2.4.2021.

Brief facts of the case are that the First Information Report dated 3.6.2019 has been lodged by the brother of the deceased against the applicant and his two sons under Section 498-A, 304-B I.P.C. and Section 3/4 D.P. Act stating that marriage his sister was solemnized with the son of applicant namely Ramesh. After the marriage, co-accused Ramesh and his brother Kailash @ Kamlesh used to make additional demand of dowry of motor-cycle and cash. On 3.6.2019, in between 1:00 to 1:30 hours, co-accused Ramesh and his brother Kailash @ Kamlesh murdered his sister. It is also stated in the FIR that the applicant also used to make demand of dowry.

After lodging of the first information report, inquest proceedings of the body of the deceased was conducted on 3.6.2019. Post-mortem of the body of the deceased was also conducted on 3.6.2019 at 5:00 P.M. As per the inquest report as well as post-mortem report, no ante-mortem injury was found on the person of the deceased. Cause of death as opined by the doctor is haemorrhage and shock as result of ante-mortem liver and spleen ruptured. After recording the statement of the prosecution witnesses under Section 161 Cr.P.C., charge-sheet has been submitted on 29.10.2021 against the applicant and two named persons. The applicant was arrested on 27.10.2019.

Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case due to ulterior motive. The applicant is father-in-law of the deceased. Marriage of his son Ramesh was solemnized with deceased on 16.5.2014. It is further submitted that as per inquest report and post-mortem report, no external injury was found on the person of the deceased but spleen and liver was found ruptured. It is further submitted that prior to one day of incident, the deceased went to collect woods from Bag, where she fell down and sustained injury and scratch on her body. She came to house and told about the incident to her husband in the night of 3.6.2019. It is further argued that a general allegation of demand of dowry and harassment have been levelled against the applicant. No specific role or involvement has been attributed to the applicant. Co-accused Kailash @ Kamlesh (brother-in-law of the deceased) having similar role has been granted bail by the Co-ordinate Bench of this Court in Crl. Misc. Bail Application No. 2187 of 2021 vide order dated 13.1.2021. He next submits that the applicant is languishing in jail since 27.10.2019 having no criminal history. He further submits that the applicant be also released on bail on the ground of parity. It is lastly submitted that if the applicant is released on bail, he shall not misuse the liberty of bail.

Per contra, learned AGA has supported the order passed by the Sessions Court and vehemently opposed the prayer for grant of bail to the applicant and he further submits that the allegations involved are very serious in nature. But, he could not point out any material to the contrary. He further submits that in case the applicant is released on bail, he will misuse the liberty of bail.

After considering the facts of the present case it prima facie appears that;

- (a) The applicant is father-in-law of the deceased;
- (b) Marriage of the deceased was solemnized with the son of applicant on 16.5.2014;

- (c) As per inquest report as well as post-mortem report, no external injury was found on the person of the deceased;
- (d) Only general role of demand of dowry and harassment has been levelled against the applicant;
- (e) No specific role or involvement has been attributed to the applicant;
- (f) Co-accused Kailash @ Kamlesh having similar role has been granted bail by the Co-ordinate Bench of this Court;

It is settled law that while granting bail, the court has to keep in mind the nature of accusation, the nature of the evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, the circumstances which are peculiar to the accused, his role and involvement in the offence, his involvement in other cases and reasonable apprehension of the witnesses being tampered with.

Taking into account the totality of facts and keeping in mind, the ratio of the Apex Court's judgment in the case of State of Rajasthan v. Balchand @ Baliay (1977) 4 SCC 308, Gudikanti Narasimhulu And Ors., v. Public Prosecutor, High Court Of Andhra Pradesh, AIR 1978 SC 429, Ram Govind Upadhyay v. Sudarshan Singh & Ors., (2002) 3 SCC 598, Prasanta Kumar Sarkar v. Ashis Chatterjee & Anr., (2010) 14 SCC 496 and Mahipal v. Rajesh Kumar & Anr., (2020) 2 SCC 118, the larger interest of the public/State and other circumstances, but without expressing any opinion on the merits, I am of the view that it is a fit case for grant of bail. Hence, the present bail application is allowed.

Let applicant, Ram Dular be released on bail in the aforesaid case crime number on his furnishing a personal bond and two reliable sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:

- (i) 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.
- (ii) The applicant shall not pressurize/intimidate the prosecution witnesses.
- (iii) 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 of Cr.P.C.
- (iv) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in the trial court.

(v) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel.

(vi) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail. If in the opinion of the trial court that absence of the applicant is deliberate or without sufficient case, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed in accordance with law.

The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously in accordance of law after the release of the applicant, if there is no other legal impediment.

It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything said in this order.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad, self attested by the applicant alongwith a self attested identity proof of the said person (preferably Aadhar Card) mentioning the mobile number to which the said Aadhar Card is linked.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

Order Date :- 9.5.2022 CS/-