2025:AHC:176270

**AFR**

# HIGH COURT OF JUDICATURE AT ALLAHABAD

## CRIMINAL MISC. BAIL APPLICATION No. - 33635 of 2025

Smt Ramwati

.....Applicant(s)

Versus

State of U.P.

.....Opposite Party(s)

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| Counsel for Applicant(s) | : | Gaurav Singh Tomar |
| Counsel for Opposite Party(s) | : | G.A., Rahul Mishra, Sanjay Mishra |

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**Court No. - 65**

**HON'BLE SANJAY KUMAR SINGH, J.**

1-The instant bail application under Section 483 of BNSS, 2023 has been filed on behalf of the applicant with a prayer to release her on bail in S.T. No. 68 of 2025 arising out of Case Crime No. 180 of 2024, under Sections 85, 80(2), 92 BNS,2023 and Sections 3/4 Dowry Prohibition Act, Police Station-Sirsakalar, District-Jalaun during the pendency of her trial.

2-Heard learned counsel for the applicant, learned Additional Government Advocate representing the State and learned counsel for the complainant.

3-Brief facts of the case, which are required to be stated are that the complainant, who is father of the deceased-Ragini got an F.I.R. lodged on 16.11.2024 against Sher Singh, Shailendra, Balkhandi, Santosh, Phool Singh, Sangeeta, Somwati and Ramwati, who are husband, brothers-in-law, sisters-in-law and mother-in-law of the deceased, respectively, stating inter-alia that marriage of his daughter Ragini was solemnized with Sher Singh on 21.06.2024 and in the said marriage, Rs. 2 lacs and household articles were given but the accused persons were not satisfied with the dowry and there was additional demand of Apache motorcycle and Rs. 1 lac in dowry from their side. On non-fulfillment of their demand of dowry, his daughter was being harassed and tortured in her matrimonial home. Her brother-in-law Santosh and Phool Singh, who lived outside used to say her husband to kill her, they will deal

with it. When his daughter told about her torture and harassment while coming to her paternal home, then he mortgaged his wife's jewellery and gave Rs. 30,000/- to Sher Singh about 20 days ago but there was no change in their behaviour and they were not satisfied, therefore, his daughter went to her matrimonial home taking her niece Shubhanya with her. His daughter told him over phone that even now her husband, mother-in-law, brother-in-law and sister-in-law beaten her due to non-fulfillment of their additional demand of dowry. On 15.11.2024 at about 10:00 AM, his sister Usha informed that his daughter was beaten and hanged to death by her husband and in-laws at around 09:00 AM in her matrimonial home. On the said information, when he along with several people of neighborhood reached there, he found that his daughter was lying dead and Shubhanya told him that Ragini's husband-Sher Singh, brother-in-law and sister-in-law beaten her with sticks after killing, forcibly hanged her to death.

4-It is argued by learned counsel for the applicant that the applicant is mother-in-law of the deceased, who is aged about 70 years. She has been falsely implicated whereas cause of death of the deceased is shock and asphyxia due to ante-mortem hanging. Referring the statement of Shubhanya, he further submits that she was eye-witness of the incident and according to her statement, the deceased-Ragini was mainly beaten by her husband and the applicant, who is mother-in-law of the deceased, had simply slapped her, hence case of the applicant is distinguishable from the case of co-accused Sher Singh (son of the applicant), therefore, the applicant, who is languishing in jail since 18.11.2024 may be enlarged on bail.

5-Per contra, learned A.G.A. for the State and learned counsel for the complainant vehemently opposed the prayer for bail of the applicant reiterating the prosecution as mentioned in the F.I.R. by contending that on account of non-fulfillment of additional demand of dowry as mentioned above, the deceased was harassed and tortured. Later on, she was killed in her matrimonial home and after that she was hanged. Relying upon the statement of Shubhanya, they also argued that not only the husband of the deceased but the

applicant, who is mother-in-law of the deceased, had also assaulted the deceased, who at the time of incident was having pregnancy of about two months. It is also pointed out that complainant Patre Singh and Shubhanya have been testified as PWs-1 and 2 before the trial Court on 13.06.2025 and 21.07.2025 respectively and they have fully supported the prosecution.

5.1-The statement of Shubhanya recorded under Section 180 of B.N.S.,2023 during investigation is reproduced herein below:

> "वयान चश्मदीद साक्षी..... सुभन्या पुत्री पुष्पेन्द्र नि०ग्राम खितोली थाना गोहन जनपद जालौन उम्र करीब *09* वर्ष ने पूछने पर बताया कि मैं अपनी मल्लू बुआ के साथ गयी थी उनका नाम रागनी भी है। है। अम्मा ने मारा था गाली भी दी थी फूफा शेर सिंह ने बुआ रागनी को कुल्हाडी ये बेटों से मारा था और गालियां दी थी। सुबह सुबह *9... 10* बजे की बात है। बुआ को हाथ खचोड कर ले गये थे टिटुआ पर बैठ गये थे मैने देखा था। पीठ में लाते दी थी पीठ पर बैठ गये थे फूफा ने कहा था कि तुम मर जाओ और तुम्हारे पेट में दो तीन महीने का मोडा है जो मर जाये। गला मसक दिया बुआ खत्म हो गयी तो फांसी के फन्दा पर टांग दिया और बाहर के किवाड ताला लगा कर भग गये। मैं घर पर ही थी फूफा से कहा था कि तुम दोनो पति पत्नी हो लडाई झगडा काहे करते हो तो फूफा ने मुझे गाली दी लाते दी पेट दी पेट में मुक्का मारे और मुझसे कहा कि ज्यादा मुह चलाओगी तो तुम्हारा भी मुह कुचल देगे।"

5.2-The statement of Shubhanya recorded as PW-2 before the trial Court is reproduced herein below:

> "मेरी बुआ का नाम रागिनी था उन्हें मल्लू बुआ भी कहते थे। मेरी मल्लू अब नहीं है उनको मार दिया है। शेरसिंह, शैलेन्द्र, बलखण्डी, फूलसिंह और उनके भाई संतोष और मेरी बुआ की दो जेठानी और डुको *(*शेरसिंह की अम्मा*)* है। इन सभी लोगों ने मिलकर मेरी बुआ को मार दिया है। आज से लगभग *8* माह हो गये है। तारीख *15* थी और सुबह के *9-10* बजे का समय था। शेरसिंह और इनके भाईयों ने डुको और जेठानी ने बुआ रागिनी को कुल्हाड़ी की मूंदों से और लात-हाथों से मारा था। मेरी बुआ के पेट में इन लोगों ने घूसा मारे थे और इन लोगों ने हाथ पकड़ के खींच के भीतर ले जाकर बुआ को फांसी पर टांग दिया था। मैं मौके पर मौजूद थी। मैं अपनी बुआ को बचाने के लिए गयी थी और मैने रोका था कि मेरी बुआ को मत मारो। तो संगीता बुआ ने मुझको भी मार कर अलग कर दिया था। शेरसिंह मेरे फूफा है। यह घटना हमारे फूफा के घर पर ही हुई थी। इस घटना के पहले छोटी दीपावली वाले दिन मैं अपनी बुआ के यहां फूफा के घर पर गयी

थी। मुझसे पुलिस अंकल ने पूछताछ की थी मैंने उन्हें ही यह बात बता दी थी। साक्षी ने हाजिर अदालत अभियुक्त शेरसिंह और (रामवती को देखकर कहा कि यह फूफा शेरसिंह की अम्मा है।) को देखकर कहा कि इन्हीं लोगों ने अन्य लोगों के साथ मिलकर मेरी बुआ रागिनी की मारपीट कर घटना कारित की।

***** जिरह द्वारा अभियुक्त

जिस दिन की यह घटना है उस दिन मैं अपने फूफा के घर पर थी। मल्लू मेरी बुआ है। मल्लू बुआ को रागिनी भी कहते है। यह 9-10 बजे की बात है। मेरी बुआ का हाथ पकड़ कर शेरसिंह ने खचोड़ा था। मैं उस समय शेरसिंह के घर पर ही थी। मैं 8 बजे स्कूल जाती हूँ। मेरा स्कूल मेरे गांव खितौली में है। 8 बजे मैं स्कूल के अंदर हो जाती हूँ फिर मेरी 2 बजे छुट्टी होती है। मैं रोजाना स्कूल जाती हूँ। मेरा ब्यान दरोगा साहब ने लिया था। शेरसिंह के घर पर मुझसे दरोगा साहब ने पूछा था। यह कहना गलत है कि जिस दिन की घटना है उस दिन मैं स्कूल मे रही हूँ। यह भी कहना गलत है कि मैं घटना वाले दिन शेरसिंह के घर पर मौजूद न हो। यह भी कहना गलत है कि मैंने ऐसी कोई घटना न देखी हो। मैं कक्षा 4 में पढ़ती हूँ। मैं दिन, महीना, सन् नही जानती हूँ। मैं एक साल में कितने महीने होते है यह नहीं जानती। नयी साल मैं जानती हूँ ठण्ड में होती है। मैं धामिनी छोटी दीपावली को आयी थी। छोटी दीपावली से जब बुआ खत्म हो गयी थी तब मैं अपने गांव खितौली वापस आयी थी।"

5.3- Lastly, it is submitted that in the light of the statement of Shubhanya, the bail application of the applicant is liable to be rejected.

6-Having heard the submissions of learned counsel for the parties and perusing the record, I find that it is not in dispute that marriage of Sher Singh with Ragini (now deceased) was solemnized on 21.06.2024 but she died her unnatural death in her matrimonial home within short span of time on 15.11.2024. From the aforementioned statements of Shubhanya, it is also clear that not only the husband of the deceased but the applicant had also assaulted the deceased. Shubhanya has also stated inter alia that accused persons after killing the deceased, hanged her. Nothing is on record to indicate that even any information was given by in-laws of the deceased to her parents and to the police. On perusal of the post mortem report, I find that following seven injuries were

found on the body of the deceased, which are corroborated from the statement of Shubhanya :

(i) An oblique ligature mark present below the chin above the thyroid cartilage, of size (27.0 x 3.0) cm with the gap of 4.0 cm right side of the neck. It is 4.0 cm below the right ear, 7.0 cm below the chin and 6.0 cm below the left ear. Total circumference of neck 31.0 cm. Hyoid bone intact. On dissection of ligature mark white and glistening present.

(ii) Abrasion of size 2.0 x 1.0 cm present over left side angle of mouth.

(iii) Multiple abrasion present at right side of face. (Max 1.5 x 0.5 cm) (Min 0.5 x 0.5 cm).

(iv) Abrasion of size 3.0 x 2.0 cm present at left side of chest.

(v) Abrasion of size 2.0 x 1.0 cm present at left knee.

(vi) Abrasion of size 2.0 x 2.0 cm present at right knee.

(vii) Contusion of size 2.0 x 2.0 cm present over left mid of thigh anterior aspect, bluish in colour.

7-It is also relevant to mention that there is no explanation of injuries found on the body of the deceased as noted above. The overall facts and materials on record prima facie indicate that deceased-Ragini was subjected to cruelty and harassment relating to demand of dowry soon before her death. Hence, presumption under Section 118 of the Bharatiya Sakshya Adhiniyam (BSA), 2023 is attracted in this case, being the case of dowry death as defined under Section 80 of the Bharatiya Nyaya Sanhita (BNS), 2023. Here it would also apposite to mention that in the context of nature of the offence like present case, this Court is of the view that cruelty means willful conduct of a nature likely to lead the woman concerned to commit suicide or danger to her life or health. The word “soon before her death” in Section 118 of the Bharatiya Sakshya Adhiniyam (BSA), 2023 cannot be limited by fixing time limit. It is up to the Court to determine the same, depending upon the facts and circumstances of each case. The offence is heinous in nature and the trial of the applicant is proceeding, in which two

prosecution witnesses, namely, complainant (father of the deceased) and Shubhanya (niece of deceased/eye witness) have been testified and they have supported the prosecution case. The statement of Shubhanya, who is eye-witness and star witness of the prosecution, cannot be disbelieved at this stage. Regarding consideration of bail prayer in the cases, wherein the offences are heinous in nature, the Hon'ble Apex Court in the case of **X vs. State of Rajasthan and Another, 2024 SCC OnLine SC 3539**, has held that if the trial of the accused has started, his bail should not be granted in heinous offences like murder, rape and dacoity, etc.

8-In view of the above, I find no good ground to enlarge the applicant on bail.

9-Accordingly, the instant bail application is **rejected**.

10-It is made clear that any observation made in this order is for the purpose of disposal of bail application and shall not affect the merit of the trial.

**October 6, 2025**
Shubham

**(Sanjay Kumar Singh,J.)**

Digitally signed by :-
SHUBHAM KUMAR AGRAHARI
High Court of Judicature at Allahabad