



HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

CRIMINAL APPEAL No. - 1283 of 2021

Smt. Manorama Shukla

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Chandra Shekhar Singh Yad, Jyoti Rajpoot
Counsel for Respondent(s)	:	G.A.

Court No. - 9

HON'BLE RAJESH SINGH CHAUHAN, J.
HON'BLE ABDHESH KUMAR CHAUDHARY, J.

(Order on Criminal Misc. Bail Application No. IA/4 of 2025)

1. Heard Ms. Jyoti Rajpoot, learned counsel for the appellant/applicant as well as Ms. Meera Tripathi, learned A.G.A. for the State and perused the materials available on record.
2. This is the second bail application, moved on behalf of the appellant/applicant- **Smt. Manorama Shukla**, in the instant pending appeal. She has been convicted under Sections 498-A, 304-B I.P.C. & 3/4 Dowry Prohibition Act and sentenced for maximum term of life imprisonment under Section 304-B I.P.C. with fine stipulations and default clause, vide judgment and order dated 06.08.2021 passed by the learned Additional Sessions Judge, Court No.19, District Lucknow, in Sessions Trial No. 790 of 2014 (State vs. Arvind Kumar Shukla and others), arising out of Case Crime No. 467 of 2013 lodged at Police Station Aliganj, District Lucknow, as her first bail application has been rejected vide order dated 14.09.2022 passed in the present appeal (In Re; C.M.A No. 116529 of 2021).
3. At the very outset, Ms. Jyoti Rajpoot has informed that she has filed an application dated 31.01.2025 for taking *vakalatnama* on record executed by the appellant/applicant & duly attested by the jail authorities. According to her, the said application and the present application for 2nd bail has been filed supported by an affidavit filed by one Sana Das, working as a Policy Expert, Access to Justice for the NGO Life and Liberty Foundation, Delhi. It has also been submitted by her that she is rendering her service '*Pro bono*' and has

been engaged by the said NGO, who works for the welfare and help of the marginalized section of the society, especially needy women, who are helpless to get justice in any manner whatsoever.

4. This Court finds that the present appeal had been filed by another Advocate, namely, Chandra Shekhar Singh Yadav, whose name also appears in the cause list. When Ms. Rajpoot was confronted about as to whether, she has obtained NOC from the said learned Advocate, she submitted that although, she has approached the said learned counsel, but he has refused to give his NOC and as such, the same has been also mentioned in the application filed by her for taking *vakalatnama* on record.

5. Having noted the submission of the learned counsel Ms. Rajpoot, this Court is of the considered view that the Code of Criminal Procedure (Cr.P.C.) does not contain any section that makes filing a *vakalatnama* mandatory for filing a bail application, whether it is; Regular bail, Anticipatory Bail, Suspension of sentence/bail after conviction. The Cr.P.C. only requires that the accused be represented by a duly authorized advocate. Moreover, although Cr.P.C. does not mandates, however, the Courts require some form of authorization for an advocate to act on behalf of the accused/convict and the providing of an NOC by the earlier counsel is as a matter of 'good practice' rather than a matter of right, especially in criminal cases, wherein life & liberty of a detainee is an issue and an accused/convict has a fundamental right guaranteed by Article 22(1) of the Constitution of India and reiterated in Sections 303 and 41-D of the Code of Criminal Procedure, to be represented by an Advocate of his/her choice, as has held in the case of '**Subedar vs. State of U.P.** reported in (2020) 17 SCC 765; (**Criminal Appeal No. 886 of 2020, decided on 18th December, 2020**).

6. Further, there is another aspect of the matter, no doubt, the right to seek bail is a personal liberty right of the accused/convict under Article 21 of the Indian Constitution, however, a third party, including an NGO, cannot generally intervene in a criminal case without the explicit consent and authorization of the person concerned, as this would violate the principles of agency and representation in law. In the considered view of this Court, an NGO can only facilitate in filing

of a bail application through a panel Advocate on behalf of an accused person, especially, if the individual is poor or otherwise eligible for legal aid, which is also commensurate to the constitutional scheme of providing legal aid under Article 21 & 39-A of our Constitution and very much imbibed in Section 304 of the Cr.P.C.

7. As far as the present case is concerned, on a perusal of records, we find that a '*vakalatnama*' has been filed by Ms. Rajpoot, which has been duly executed/thumb impression by the appellant/applicant and also duly verified by the jail authorities. The said *vakalatnama* duly authorized Ms. Jyoti Rajpoot to represent the appellant/applicant in this case. Therefore, this Court does not find any plausible reason or any law on the subject as to why the present application for second bail be not heard on merits in its present form.

8. Learned counsel for the appellant/applicant while pressing this bail application, submits that the total period of the sentence including remission as on 08.06.2025 is 12 years, 06 months and 13 days and if the further period w.e.f. 08.06.2025 is counted, it would be 12 years and 11 months approximately. Therefore, the present appellant, who is a lady, may be given the benefit of the dictum rendered by the Hon'ble Supreme Court in the case of ***Saudan Singh Vs. State of U.P reported in 2022 SCC OnLine SC 697.***

9. She has further submitted that the present appellant/applicant is the mother-in-law of the deceased and there is no eye witness account or last seen evidence, even there is no direct evidence but only on the basis of presumption that her daughter-in-law died at her matrimonial home under some mysterious circumstances, the appellant has been convicted. The cause of death is 'asphyxia and antemortem smothering'. There are 09 injuries but the present appellant is absolutely unaware as to how the deceased received those injuries. The appellant/applicant had nothing to do with the family affair of her son or his wife and there might be some dispute between her son and his wife but she is not aware about that dispute, as she had cordial relations to the deceased. She has also submitted that the other co-convicts are still in jail. Paper book is ready and she is ready to argue the appeal finally on merits as and when it is next listed.

10. Per contra, learned A.G.A. has opposed the aforesaid bail application by submitting that the present appellant/applicant is the mother-in-law of the deceased and she is equally responsible for the death of her daughter-in-law who died under mysterious circumstances in a place of her in-laws and the death could not be explained by the present appellant or other co-convict persons. Therefore, the presumption has been drawn against her under Section 113-B of the Indian Evidence Act.

11. Having heard learned counsels for the parties and having perused the materials available on record; without entering into the merits of the appeal, considering the fact that the present appellant/applicant is a lady, She is in jail for about 13 years including the period of remission; there other appeals of co-convicts are connected, wherein the counsels are not ready to argue the appeal on merits; this is a case where no eye witness account or last seen evidence, even there is no direct evidence and the present appellant has been convicted, as the presumption has been drawn against her under Section 113-B of the Indian Evidence Act because she could not explain the reason of death of the deceased, who died under mysterious circumstances in her matrimonial home and undertaking of learned counsel for the appellant/applicant that she shall argue the appeal on merits as and when it is next listed, we, hereby, grant bail to the present appellant/applicant.

12. Accordingly, the instant bail application filed on behalf of appellant/applicant is **allowed**.

13. Let the appellant/applicant- **Smt. Manorama Shukla**, who has been convicted under Sections 498-A, 304-B I.P.C. & 3/4 Dowry Prohibition Act and sentenced for maximum term of life imprisonment under Section 304-B I.P.C. with fine stipulations and default clause, vide judgment and order dated 06.08.2021 passed by the learned Additional Sessions Judge, Court No.19, District Lucknow, in Sessions Trial No. 790 of 2014 (State vs. Arvind Kumar Shukla and others), arising out of Case Crime No. 467 of 2013 lodged at Police Station Aliganj, District Lucknow, be released on bail on her furnishing a personal bond to the satisfaction of the Court concerned, subject to the following conditions:-

(i) The whole fine imposed by the Trial Court shall remain stayed during the pendency of the appeal.

(ii) The appellant/applicant shall cooperate in the early disposal of appeal without seeking unnecessary adjournment.

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

14. It is made clear that during bail, if the appellant commits any offence, the prosecution will be at liberty to file an application for cancellation of bail.

15. Before parting with noticing the fact that Ms. Jyoti Rajpoot, learned Advocate has conducted this case without charging any fee and the NGO, which has empanelled her as an Advocate and the fact that the said NGO does not pay any fees except the actual expenses, this Court in the peculiar facts of the present case, keeping in view the service rendered by a young counsel, who has come to the rescue of a woman for providing legal aid, we direct the High Court Legal Services Committee, High Court of Judicature at Allahabad, Lucknow Bench, Lucknow to pay an amount of Rs. 11,000/- (Rupees Eleven Thousand only) to Ms. Jyoti Rajpoot, Advocate, who in the technical sense has worked in the capacity akin to Amicus Curiae in this case.

16. The aforesaid fees may be paid to the learned counsel for the appellant within 15 days after receiving a certified copy of this order.

17. As soon as personal bond is furnished, photocopy of the same is directed to be transmitted to this Court forthwith by the Trial Court concerned to be kept on record of this appeal.

(Order on Appeal)

List this appeal in the month of January, 2026 along with connected appeals for hearing.

November 21, 2025
Praveen

(Abdhesh Kumar Chaudhary,J.) (Rajesh Singh Chauhan,J.)