

Court No. - 54

**Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6806
of 2018**

Applicant :- Baby Singh @ Rita Singh And Another

Opposite Party :- State Of U.P.

Counsel for Applicant :- Mithilesh Kumar Shukla, Avanish Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble J.J. Munir,J.

Counter affidavit has been filed today in Court is taken on record.

The dying declaration summoned vide order dated 22.02.2018 has been placed before this Court in sealed cover by the Registrar General alongwith a letter from the District Judge, Kanpur Nagar who has forwarded the said dying declaration.

The seal has been opened by the Bench Secretary in the presence of the Court and the dying declaration has been perused.

The dying declaration after being perused is directed to be again placed in a fresh cover to be sealed by the Bench Secretary. The Bench Secretary has sealed the same alongwith all the existing covers in the presence of the Court and the same is directed to be sent to the Registrar General for its onward and immediate transmission back to the learned Sessions Judge, Kanpur Nagar.

The letter from the District Judge, Kanpur Nagar and all its enclosures are, however, being retained on the record.

This is an application for bail filed on behalf of Baby Singh @ Rita Singh and Sapna in Case Crime No.276 of 2017, under Sections 498A, 306 I.P.C, P.S. Panki, District Kanpur Nagar.

Heard Sri Avanish Kumar Shukla, learned counsel for the applicant and Sri Kamal Singh Yadav, learned AGA on behalf of the State.

This Court as already indicated above had called for the dying declaration dated 09.05.2017 from the Court where ever it lay through the learned Sessions Judge, Kanpur Nagar which as said in the earlier part of this order has been produced in original and perused alongwith a counter affidavit filed today. A certified copy of the dying declaration dated 09.05.2017 is

annexed which too has been compared with the original.

A further dying declaration dated 05.05.2017 has also been annexed with the counter affidavit filed on behalf of the State marked as Annexure CA-2.

The submission of the learned counsel for the applicant is that a perusal of both the dying declarations shows at best a case of routine bickerings between the applicant, her mother-in-law, father-in-law and sister-in-law (*Devrani*) of whom the mother-in-law and sister-in-law are the applicants here; that a perusal of both the dying declarations do not speak or show any such act or specific words spoken as may constitute instigation, aid or conspiracy within the meaning of Section 107 IPC so as to attract the offence under Section 306 IPC; that it is submitted that the deceased has committed suicide according to her version in both the dying declarations over nothing more than ordinary bickerings and that has to be *prima facie* believed at this stage, a dying declaration being as if it were a speech from the grave; that in the submission of the learned counsel for the applicant that there is no such positive evidence of abetment on the part either of the two applicants as may make out a case under Section 306 IPC against them; and, that both applicants are respectable women with no criminal who are in jail since 19.01.2018.

Learned AGA has opposed the prayer for bail with the submission that the two dying declarations referred to nominate the two applicants. However, he does not dispute the fact that nothing more than a routine quarrel between the applicant and her in-laws is mentioned in the two dying declarations.

Considering the overall facts and circumstances of the case, the nature of allegations, the gravity of the offence, the evidence even that appearing from the two dying declarations equally solemn recorded by the deceased but without expressing any opinion on merits, this Court finds it to be a fit case for bail.

The bail application, accordingly, stands **allowed**.

Let the applicant **Baby Singh @ Rita Singh and Sapna** involved in the aforesaid case be released on bail on executing personal bonds and furnishing two-two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:

- i) The applicants shall not tamper with the prosecution evidence.

- ii) The applicants shall not threaten or harass the prosecution witnesses.
- iii) The applicants shall appear on the date fixed by the trial court.
- iv) The applicants shall not commit an offence similar to the offence of which the applicant is accused, or suspected of the commission.
- v) The applicants 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 such person from disclosing facts to the Court or to any police officer or tamper with the evidence.

In case of default of any of the conditions enumerated above, the complainant would be free to move an application for cancellation of bail before this Court.

Order Date :- 28.2.2018

Shahroz