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NOC From Previous Counsel Only A...

NOC From Previous Counsel Only A Matter Of 'Good Practice'; Duly Authorized New Advocate Can Press Bail Without It: Allahabad High Court

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The **Allahabad High Court (Lucknow Bench)** recently clarified that obtaining a 'No Objection Certificate' (NOC) from a previous counsel is merely a matter of "*good practice*" and not a pre-requirement for the purposes of hearing in a criminal case.

A Bench of **Justice Rajesh Singh Chauhan** and **Justice Abdhesh Kumar Chaudhary** added that a new counsel who is duly authorized by his client can press a bail application even if the earlier lawyer withholds the NOC.

Briefly put, **Advocate Jyoti Rajpoot**, a *pro bono* counsel was engaged by an NGO and she appeared for the appellant-convict (Manorama Shukla) in a dowry death case by way of filing a second bail plea. In this case, the appellant had been convicted and sentenced to life imprisonment in August 2021 by the Additional Sessions Judge, Lucknow.

Though the newly engaged counsel (**Jyoti Rajpoot**) held and filed a valid *Vakalatnama* executed by the appellant from jail but she could not get an NOC from the appellant's previous counsel as he who refused to sign it.

She apprised the bench that she is rendering her service '*Pro bono*' and has been engaged by an NGO, who works for the welfare and help of the marginalized section of the society, especially needy women, who are helpless to get justice.

At the outset, the Court outlined that while an NGO cannot intervene in a criminal case *suo motu* (on its own) it can effectively facilitate representation as was done in the present case.

Regarding the non-availability of a NOC from the previous counsel, the Court found the same to be inconsequential. It remarked thus:

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"...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".

The Court further added that CrPC does not contain any section that makes filing a *vakalatnama* mandatory for filing a bail application, but it is the courts which require some form of authorization for an advocate to act on behalf of the accused/convict.

Against this backdrop, the Court took into account the fact that Rajpoot's *Vakalatnama* had been duly executed/thumb impression by the appellant/applicant and also duly verified by the jail authorities.

Thus, the Court proceeded to hear the matter on merits. It noted that being the mother-in-law, she was convicted on the basis of presumption (Section 113-B Evidence Act) without eyewitness testimony.

HC also took into consideration that connected appeals of co-convicts are not ready for hearing and this means that the appellant will have to be in jail for an indefinite period.

Further, noting that she has been in jail for approximately **13 years**, her bail plea was allowed and it was directed that the whole fine imposed by the Trial Court shall remain stayed during the pendency of the appeal.

Importantly, in a gesture of encouragement, the Bench recognized the efforts of **Advocate Jyoti Rajpoot**, who took up the cause of the poor litigant without charging a fee.

Noting that she had worked in a capacity akin to an *Amicus Curiae*, the HC directed the High Court Legal Services Committee to pay her Rs. 11,000/- as honorarium within 15 days. Main appeal is listed in the month of January, 2026

Case title - Manorama Shukla vs. State of U.P

Case citation :

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| (https://www.livelaw.in/pdf_upload/manorama-shukla-vs-state-of-up-allahabad-high-court-635480.pdf) | | | | |

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