

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

29th DECEMBER, 2023

FIRST BAIL APPLICATION NO.2791 of 2023

Smt. Sushma Applicant

Versus

State of Uttarakhand Respondent

Counsel for the Applicant : Mr. Dheeraj Joshi,
Advocate.

Counsel for the State : Mr. V.K. Jemini,
Deputy Advocate
General.

Hon'ble Alok Kumar Verma,J.

Present Application has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in connection with the Case Crime No.501 of 2022 (Sessions Trial No.245 of 2022), registered at police station Manglore, District Haridwar.

2. Applicant – Smt. Sushma is in judicial custody under Sections 302, 201 and Section 120 B of the Indian Penal Code, 1860.

3. The case of the prosecution is that the informant Smt. Jagwati was residing in Muzaffarnagar with her two sons. She went to her village with her younger son, namely, Pinku to talk to her deceased son Subhash's wife

Smt. Sushma (present applicant) and her (present applicant) two sons, namely, Amit Kumar (co-accused) and Ankit regarding the settlement. There was an altercation with the present applicant and informant's two sons on 21.05.2022. The informant Smt. Jagwati sent her son Pinku to the terrace to sleep. At night, the informant's son Pinku was given liquor and when he got drunk, kerosene was poured over him and he was set on fire. When he did not come down in the morning, the informant sent her younger grandson to the roof, who told her that his uncle (deceased) had been burnt in the fire. The informant went to the roof. Her son Pinku died in front of her.

4. The First Information Report was registered against the present applicant, Amit Kumar alias Kallu and Ankit. Inquest proceedings and post-mortem examination of the dead body of the deceased were conducted. As per the post-mortem report dated 22.05.2022, the dead body of the deceased was burnt to the extent of 80 to 85%. The cause of death of the deceased was found asphyxia due to anti-mortem compression of neck due to throttling. Ankit was exonerated by the Investigating Officer during the investigation. Upon conclusion of the investigation, charge-sheet was filed.

5. Heard Mr. Dheeraj Joshi, learned counsel for the applicant and Mr. V.K. Jemini, learned Deputy Advocate General for the State.

6. Mr. Dheeraj Joshi, Advocate, contended that the applicant, aged about 51 years, is an innocent lady. She has been falsely implicated in the present matter only on her confession, which is not admissible in evidence. She does not have any criminal antecedents. She is a permanent resident of District Haridwar, therefore, there is no chance of her absconding. She is in judicial custody since 24.05.2022, and, a co-accused Amit Kumar alias Kallu has been granted regular bail by this Court.

7. Learned counsel for the State has opposed the bail application orally.

8. Bail is the rule and committal to jail is an exception. Refusal of bail is a restriction on the personal liberty of the individual, guaranteed under Article 21 of the Constitution of India. The object of keeping the accused person in detention during the trial is not punishment. The main purpose is manifestly to secure the attendance of the accused.

9. Having considered the submissions of learned counsel for both the parties and in the facts and circumstances of the case, no reason is found to keep the applicant behind the bars for an indefinite period,

therefore, without expressing any opinion as to the merit of the case, this Court is of the view that the applicant deserves bail at this stage.

10. The Bail Application is allowed.

11. Let the applicant – Smt. Sushma be released on bail on her executing personal bond and furnishing two reliable sureties, each in the like amount, to the satisfaction of the court concerned.

ALOK KUMAR VERMA, J.

Dt: 29.12.2023

Pant/