

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9465 of 2023

Applicant :- Smt. Pooja And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Amit Srivastava, Bhuvnesh Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Bhuvnesh Kumar Singh, learned counsel for the applicants and Sri Rajiv Dhar Dwivedi, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicants on bail in Case Crime No. 327 of 2022, under Sections 306 IPC, Police Station Etmadpur, District Agra, during pendency of the trial in the court below.
3. FIR of the present case was lodged against the applicants and one auto driver Pappu @ Jagdish under section 302 IPC and according to the FIR, marriage of the applicant No. 1 was performed with the deceased and informant came to know that his son i.e. husband of the applicant No.1 is missing.
4. It is further mentioned in the FIR that earlier also applicant No. 1 alongwith co-accused Pappu @ Jagdish, the auto driver threatened his son and on 20.9.2022, dead body of the son of the informant was recovered.
5. Learned counsel for the applicant submitted that initially FIR of the present case was lodged under sections 302 and 201 IPC but after post mortem when it was revealed that deceased died due to hanging then case was converted under section 306 IPC.
6. He further submitted that applicant no. 1 is the wife of the deceased and applicant no. 2 is his brother in law and on the basis of false allegation they have been made accused in the present matter.
7. He further submitted that actually deceased was having dispute with the informant i.e. his father for the property and only due to this reason, he committed suicide.

8. He further submitted that there is no cogent evidence that due to the abetment of the applicants deceased committed suicide.

9. He further submitted that applicants are having no criminal history and they are in jail in the present matter since 11.10.2022 i.e. for last more than a year.

10. Per contra, learned AGA opposed the prayer for bail but could not dispute the arguments on facts advanced by learned counsel for the applicant.

11. I have heard learned counsel for the parties and perused the record of the case.

12. Initially, FIR of the present case was lodged under sections 302, 201 IPC but during investigation case was converted under section 306 IPC and according to the prosecution, applicant no. 1 who is wife of the deceased was having illicit relationship with the co-accused Pappe@Jagdish, the auto driver and therefore, deceased committed suicide. Except bald and verbal allegation, there is no cogent evidence against the applicants that due to their abetment, deceased committed suicide.

13. Further, applicants are having no previous criminal history and they are in jail in the present matter since October, 2022 i.e for last more than a year.

14. Therefore, considering the facts and circumstances of the case, discussed above, in my view, applicants are entitled to be released on bail.

15. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

16. Let the applicants- **Smt. Pooja and Rajesh Kashyap**, be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicants shall appear before the trial court on the dates fixed, unless their personal presence is exempted.

(ii) The applicants shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicants shall not indulge in any criminal and anti-social activity.

17. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicants.

18. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 11.12.2023

Ankita