

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 20053 of 2023

Applicant :- Smt. Heeramani Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Priyanka Vishwakarma, Kamlesh Shrama, Saroj Kumar Dubey

Counsel for Opposite Party :- G.A., K.S. Tiwari, Vivek Tiwari

Hon'ble Dr. Gautam Chowdhary, J.

1. Heard learned counsel for the applicant, Sri K.S. Tiwari, learned counsel for the informant, learned A.G.A. for the State and perused the material on record.

2. Learned counsel for the applicant contends that the applicant has been falsely implicated in the instant case. The applicant is the mother-in-law of the deceased. The applicant never demanded dowry or did she torture the deceased. In fact, the applicant never interfered in the domestic life of the deceased and her husband. The applicant is bereaved by the death of his daughter-in-law and prays for peace of the departed soul. However, for the purpose of the bail application, learned counsel argued that it is admitted case of separate living and that the deceased has committed suicide as is evident from the perusal of the parcha of the case diary that the room was locked when the police came, the door was opened and the dead body was brought down. Learned counsel has next argued that on the fateful day apparently after minor disagreement with her husband, the deceased committed suicide in a fit of rage by hanging herself. The cause of death recorded in the post mortem report is asphyxia due to ante mortem hanging. The applicant did not abet or instigate the deceased to commit the suicide. The applicant does not have any criminal history apart from the instant

case. The applicant is an old lady, who resides in Varanasi with her family. The applicant is not a flight risk. The applicant is a law abiding citizen who has cooperated with the police investigation and shall join the trial proceeding. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending. The applicant is in jail since 11.01.2023.

3. Learned AGA as well as learned counsel for the informant have opposed the bail prayer of the applicant. Learned counsel for the informant has submitted that though the cause of death in the post mortem report has been reported as asphyxia due to ante mortem hanging but at the same time, viscera was preserved since there was suspicion about administering poisonous substance to the deceased. He further submits that in the viscera report, aluminium phosphide substance has been found. It is thus contended that prior to hanging the deceased, aluminium phosphide was administered to the deceased ergo the applicant is entitled to be enlarged on bail.

4. Learned counsel further submits that the perusal of the parcha no.12 of the case diary, shows that the deceased was having conversation with her mother prior to her death, in which only general allegations have been levelled against the applicant and therefore the allegation of administering poison is not made out against the applicant, thus the applicant is entitled to be enlarged on bail.

5. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties, nature of evidence, and all attending facts and circumstances of the case, without expressing any opinion on merits of the case, this Court is of the view that the applicant has made out a case for bail. Hence the bail application is allowed.

6. Let applicant **Smt. Heeramani Devi** involved in Case Crime No. 08 of 2023 under Sections 498A, 304B, 120B I.P.C., and Section 3/4 of Dowry Prohibition Act, Police Station Manduadih, District Varanasi, be released on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

I. The applicant shall file an undertaking to the effect that she shall not seek any adjournment on the dates fixed for evidence and the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

II. The applicant shall remain present before the trial court on each date fixed, either personally or through her counsel. In case of her absence, without sufficient cause, the trial court may proceed against her under Section 229-A of the Indian Penal Code.

III. In case, the applicant misuses the liberty of bail and in order to secure her presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against her, in accordance with law, under Section 174-A of the Indian Penal Code.

IV. The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of her bail and proceed against her in accordance with law.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

6. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 2.12.2023
Mustaqeem/S.Ali.