

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 23440 of 2023

Applicant :- Smt Bindar And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Shravana Kumar Yadav,Narendra Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Dr. Gautam Chowdhary,J.

1. Heard learned counsel for the applicants, learned counsel for the State and perused the material on record.
2. The instant bail applicant has been filed by the applicants for enlarging them on bail in Case Crime No. 224 of 2022 under Sections 302, 315, 326, 120-B I.P.C. Police Station Janakpuri, District Saharanpur.
3. Learned counsel for the applicants submits that the applicants are mother-in-law and brother-in-law (dewar) of the deceased, who have been falsely implicated in the charges levelled against them and that there are no direct evidence against them. The applicants never demanded dowry or did they torture the deceased. In fact, the applicants never interfered in the domestic life of the deceased and her husband. The applicants are bereaved by the death of her daughter-in-law and sister-in-law and prays for peace of the departed soul. However, for the purpose of the bail application, learned counsel for the applicant has drawn attention of this Court to the dying declaration of the deceased, wherein she has categorically stated that she has solemnised marriage out of her free will and consent with Nitin, the son and brother of the applicant nos.1 and 2 respectively, but prior to one month some altercation took place with him due to which, her husband had beaten her and she came to her mother's house. The husband, applicants came to her house but the applicants went back in the day to their house however, her husband stayed at her parental house and that her husband, wife and her mother were sleeping in

a room together, in the night at about 04:30 A.M. the husband sprinkled kerosene oil upon her on alarm, the neighbour telephonically informed the her landlord, who called the police, copy of which is at page 72 of the paper book. It is thus contended that the applicants have no role in the alleged offence except that they went to the house of the deceased and returned in the day itself and that being the in-laws of the deceased, the applicants have been falsely implicated in the present case. Several other submissions in order to demonstrate the falsity of the allegations made against the applicants have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. The applicants do not have any criminal history apart from the instant case. The applicant no.1 is an old and infirm lady whereas the applicant no.2 is a young person, who resides in District Shamli with their family. The applicants are not a flight risk. The applicants are law abiding citizens who have cooperated with the police investigation and shall join the trial proceeding. There is no possibility of their influencing witnesses, tampering with the evidence or reoffending. The applicants are in jail since 31.12.2022.

4. Learned AGA for the State could not satisfactorily dispute the aforesaid submissions from the record. He does not contest the criminal history as well as dying declaration of the deceased as disclosed in the bail application.

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 applicants have made out a case for bail. Hence the bail application is allowed.

6. Let applicants **Smt. Bindar and Akash Kumar** involved in Case Crime No.2 224 of 2022 under Sections 302, 315, 326, 120-B I.P.C. Police Station Janakpuri, District Saharanpur, 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 applicants shall file an undertaking to the effect that they 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 applicants shall remain present before the trial court on each date fixed, either personally or through their counsel. In case of his absence, without sufficient cause, the trial court may proceed against them under Section 229-A of the Indian Penal Code.

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

IV. The applicants 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 his bail and proceed against them in accordance with law.

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

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

Order Date :- 13.10.2023

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