

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 24320 of 2023

Applicant :- Rinki

Opposite Party :- State of U.P.

Counsel for Applicant :- Hari Om Sharan Tiwari, Shrikant Chaturvedi

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Hari Om Sharan Tiwari, learned counsel for the applicant and Sri Santosh Nigam, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 84 of 2023, under Sections 34, 304, 201, 504, 352 IPC, Police Station- Tilhar, District- Shahjahanpur, during pendency of the trial in the court below.
3. FIR of the present case was lodged against applicant and others and according to the FIR, applicant is the '*jethani*' of the injured and on 29.04.2022, she alongwith her husband and father-in-law ablated her.
4. Learned counsel for the applicant submitted that totally on the basis of false allegation, applicant, who is '*jethani*' of the injured, was made accused in the present matter. He further submitted that initially FIR was lodged under Section 307 IPC but after the death of the injured, case was converted under Section 304 IPC.
5. He further submitted that however, there is allegation that applicant alongwith other accused persons including her husband and father-in-law, ablated the deceased by pouring Diesel but during investigation, Tehsildar concerned recorded the dying declaration of the deceased, which has been annexed as Annexure No. 5 to the affidavit and in the dying declaration, she although, stated that applicant tried to commit her murder but she further stated that when she arose then accidentally she caught fire from gas, therefore, her dying declaration shows that it is a case of accidental burning.

6. He further submitted that applicant is a lady and she is not having any criminal history and is in jail since 20.03.2023 i.e. last more than six months.
7. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the fact that in her dying declaration recorded by the Tehsildar, deceased stated that accidentally she sustained burn injuries.
8. I have heard learned counsel for the parties and perused the record of the case.
9. Considering the dying declaration of the deceased recorded by the Tehsildar, which has been annexed as Annexure No. 5 to the affidavit and the fact that applicant is a lady and she is in jail since 20.03.2023 i.e. for last more than six months, in my view applicant is entitled to be released on bail.
10. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.
11. Let the applicant- **Rinki** 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 applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.
- (ii) The applicant 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 applicant shall not indulge in any criminal and anti-social activity.
12. 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 applicant.
13. 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.