

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 26037 of 2023

Applicant :- Urmila And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Suneel Kumar Yadav

Counsel for Opposite Party :- G.A.,Daya Shankar

Hon'ble Samit Gopal,J.

1. List revised.

2. Heard Sri Suneel Kumar Yadav, learned counsel for the applicants, Sri Daya Shankar, learned counsel for the first informant, Sri Shashi Kant Pandey, learned counsel for the State and perused the material on record.

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicants-Urmila and Manita, seeking enlargement on bail during trial in connection with Case Crime No.91 of 2023, under Sections 147, 148, 149, 325, 352, 336, 323, 506, 308, 304 IPC, registered at Police Station Pawai, District Azamgarh.

4. The FIR of the matter was lodged on 16.4.2023 by Kedar against the applicants and four other persons alleging therein that the accused persons in the morning armed with lathi, iron rod and pieces of bricks assaulted due to which he received injury and other persons of his family Chandrawati, Meena, Menika and Indrawati also received injury.

5. Learned counsel for the applicants argued that the applicants have been falsely implicated in the present case. It is further argued that in the present matter the first informant Kedar is the deceased who died later on. Chandrawati and Indrawati are the alleged injured. There is nothing on record to show that Meena and Menika have received injury. It is argued that general and omnibus allegations are levelled against the applicants and four other accused persons. There is no specification of the role of the accused persons. Co-accused Sushma and Sugriv have been granted bail by coordinate Benches of this Court vide orders dated 13.7.2023 and 11.12.2023 passed in Criminal Misc. Bail Application Nos. 24875 of 2023 and 52990 of 2023 respectively, copies of the said orders produced by learned counsel for the applicant are taken on record. There is no recovery of any

incriminating article either from the possession of the applicant or at his pointing out, para 15 of the affidavit has been placed before the Court. It has also been pointed out that the applicant is not having any criminal history as stated in para 20 of the affidavit. The applicant is in jail since 21.4.2023.

6. Per contra learned counsel for the first informant and learned counsel for the State opposed the prayer for bail.

7. After hearing the counsel for the parties and perusing the record, it is evident that general and omnibus allegations are levelled against the applicants and four other accused persons. There is no specification of the role of the accused persons. There is no recovery of any incriminating article either from the possession of the applicant or his pointing out.

8. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicants may be enlarged on bail.

9. Let the applicants-Urmila and Manita, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The applicants will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicants will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicants shall file an undertaking to the effect that they shall not seek any adjournment on the date fixed for evidence when 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.

(iv) The applicants will not misuse the liberty of bail in any manner whatsoever. In case, the applicants misuse the liberty of bail during trial and in order to secure their presence proclamation under section 82 Cr.P.C., may be issued and if applicants fail 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 I.P.C.

(v) The applicants shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against them in accordance with law and the trial court may proceed against them under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicants.

10. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicants to prison.

11. The bail application is **allowed**.

(Samit Gopal, J.)

Order Date :- 12.12.2023

Gaurav Kuls