

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 29120 of 2023

Applicant :- Smt. Renu

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. List revised.
2. Heard Sri Ram Kumar, learned counsel for the applicant, Sri Bare Lal Bind, learned AGA 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 applicant Smt. Renu, seeking enlargement on bail during trial in connection with Case Crime No. 188 of 2023, under Sections 302, 201, 120B, 34 I.P.C. registered at P.S. Goverdhan, District Mathura.
4. The F.I.R. of the matter was lodged on 4.4.2023 by Narendra Sharma against unknown persons alleging therein that he was married to Yashoda Kaushik in the year 2019. On 14.2.2023 in the morning his wife Yashoda leaving her 2-1/2 years son, went away from the house without telling anyone. On 02.4.2023 her dead body was found in Govindkund Police Station Goverdhan, Mathura regarding which he came to know through newspaper and electronic media. Someone has murdered his wife and threw her dead body in Govindkund, Goverdhan.
5. Learned counsel for the applicant argued that the applicant is mother of the deceased and she has been falsely implicated in the present case. It is argued that the F.I.R. has been lodged after 48 days of the deceased going missing from her matrimonial house and delay in lodging of the same is unexplained. It is argued that during the said period no complaint or missing report was lodged by the husband of the deceased. It is argued that the present case is a case of circumstantial in nature and there is no credible evidence against the applicant. It is argued that implication of the applicant in the case is during investigation. It is argued that nothing incriminating material has been recovered either pointing out or possession of the applicant, para-30 of the affidavit has been placed before the Court for the same. It is argued that co-accused Hema@Hemlata has been granted bail by a co-ordinate Bench of this Court vide order dated 13.7.2023

passed in Criminal Misc. Bail Application No. 30524 of 2023, copy of the said order has been annexed as Annexure No.S.A.-7 to the supplementary affidavit dated 09.8.2023. Further co-accused Radheshyam and Bhagirath have also been granted bail by another co-ordinate Bench of this Court vide order dated 26.7.2023 passed in Criminal Misc. Bail Application No. 32583 of 2023, copy of the said order has been annexed as Annexure No.S.A.-7 to the said supplementary affidavit dated 09.8.2023. It is argued that the applicant is a lady and is entitled to the benefit of Section 437 Cr.P.C. It is argued that the applicant has no other criminal antecedents as stated in para-25 of the affidavit and is in jail since 5.4.2023.

6. Per contra, learned State counsel opposed the prayer for bail.

7. After having heard learned counsels for the parties and perusing the record, it is evident that the applicant is a lady and mother of the deceased. She is entitled to the benefit of Section 437 Cr.P.C. Implication of the applicant has surfaced in the matter during investigation. The present case is case of circumstantial in nature and there is no credible evidence against her. Nothing incriminating has been recovered either pointing out or possession of the applicant. Delay in lodging of the F.I.R. is unexplained. Co-accused Hema@Hemlata, Radheshyam and Bhagirath have been granted bail.

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 applicant may be enlarged on bail.

9. Let the applicant- Smt. Renu, 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 applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant 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 applicant shall file an undertaking to the effect that she 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 applicant will not misuse the liberty of bail in any

manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure her presence proclamation under section 82 Cr.P.C., may be issued and if 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 I.P.C.

(V) The applicant 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 her in accordance with law and the trial court may proceed against her 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 applicant.

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 applicant to prison.

11. The bail application is allowed.

(Samit Gopal,J.)

Order Date :- 6.11.2023
Naresh