

Court No. - 48

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 31134 of 2023

Applicant :- Samira Alias Sabbir Khan

Opposite Party :- State of U.P.

Counsel for Applicant :- Devendra Kumar Upadhyay

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Shyam Shamshery,J.

1. Heard Sri Devendra Kumar Upadhyay, learned counsel for applicant and Mrs. Sujata Chaudhary, learned AGA for State.
2. This is second bail application filed by applicant-Samira alias Sabbir Khan in Case Crime No. 167 of 2022, under Sections 498A, 304B IPC and 3/4 Dowry Prohibition Act, Police Station Malawan, District Etah. First bail application of applicant was disposed of vide order dated 17.03.2023 with direction to conclude trial expeditiously.
3. In pursuance of an order passed by this Court on 17.07.2023 Trial Court has submitted report about status of trial that out of proposed 13 prosecution witnesses, two have been examined and trial would be concluded within six months.
4. Learned counsel for applicant submits that prosecution witnesses no. 1 and 2 (father and mother of deceased) have not supported case of prosecution and are declared hostile. Wife of present applicant, i.e., mother-in-law of deceased, has already been enlarged on bail.
5. Learned AGA appearing for State is not able to contradict the above submission on the basis of record.
6. In view of above submission and status of evidence on record

and since material witnesses have been examined who have not supported case of prosecution and are declared hostile as well as that similarly situated co-accused has already been enlarged on bail, I am of the view that present applicant has made out a case for bail.

7. However, applicant is directed to remain present on each and every date as and when required by Trial Court during trial and in case any application for exemption on vague ground is filed, the same shall be a ground for Trial Court to cancel bail immediately.

8. Let the applicant-**Samira alias Sabbir Khan** 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 shall file an undertaking to the effect that he shall not seek any adjournment or exemption from appearance on the date fixed in trial. 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.

(iii) 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 his 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 him, in accordance with law, under section 174-A I.P.C.

(iv) The Trial Court may make all possible efforts/endeavour and

try to conclude the trial expeditiously, preferably within a period of six months after release of applicant, if there is no other legal impediment.

9. 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.

10. The bail application is allowed.

11. It is made clear that the observations made hereinabove are only for the purpose of adjudicating the present bail application.

Order Date :- 26.10.2023

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