

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35832 of 2023

Applicant :- Smt. Geeta Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Om Prakash Mishra

Counsel for Opposite Party :- G.A.,Prem Shankar,Sushma Soni

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Om Prakash Mishra, learned counsel for the applicant, Ms. Sushma Soni, learned counsel for the Intervenor and Sri V.P. Singh, learned A.G.A. for the State as well as perused the material placed on record.
3. Applicant seeks bail in Case Crime No.143 of 2022, under Sections 182, 211, 194, 344, 201 I.P.C., Police Station Gopiganj, District Bhadohi, during the pendency of trial.
4. As per prosecution story, the FIR was instituted by the husband of the applicant against unknown persons regarding the missing of his daughter aged about 16 years from his house since 14.5.2022 at about 07:30 p.m.
5. Learned counsel for the applicant has stated that she has been falsely implicated in the present case. Learned counsel has stated that later on a dead body was recovered and the applicant alongwith her husband identified the said dead body as of their daughter. The co-accused persons Vishnu Kahaar and Pradeep Kumar were sent to jail but were bailed out. On the application moved by the said co-accused persons, the investigation regarding CDRs of the applicant were taken up. The co-accused persons Vishnu Kahaar and Pradeep Kumar were exonerated and the applicant has been falsely implicated in this case. Learned counsel has stated that the sole evidence against the applicant is CDR record indicating call details, whereby the applicant is stated to have been found talking with her daughter who is still alive and resides at Gautam Budh Nagar.
6. Learned counsel for the applicant has further stated that there is nothing on record to suggest that the daughter of the applicant is alive. The said charge-sheet against the applicant has been filed on vague allegations in collusion with the co-accused persons Vishnu Kahaar and Pradeep Kumar. There is no criminal antecedent of the applicant. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against her. The

circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. The applicant is languishing in jail since 27.3.2023. In case, the applicant is released on bail, she will not misuse the liberty of bail.

6. Per contra, learned counsel for the Intervenor and learned A.G.A. have vehemently opposed the bail application on the ground that co-accused persons Vishnu Kahaar and Pradeep Kumar were falsely implicated in this case by the applicant owing to enmity as one case has been instituted by the co-accused Vishnu Kahaar against the informant. They have further stated that the applicant herself and her husband had falsely identified the said dead body just to implicate the said persons Vishnu Kahaar and Pradeep Kumar out of animosity.

7. After hearing learned counsels for the parties and taking into consideration the fact that the applicant is not an witness of inquest proceedings and has not been arrayed in it coupled with the fact that no voice test has been conducted regarding the said talk with her daughter, and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

8. Let the applicant- **Smt. Geeta Devi**, who is involved in aforementioned case crime be released on bail on her furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with evidence.

(ii) 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.

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

10. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming her independent opinion based on the testimony of the witnesses.

Order Date :- 21.11.2023/ Vikas

[Krishan Pahal, J.]