

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38412 of 2023

Applicant :- Nandlal Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Pradeep Yadav

Counsel for Opposite Party :- G.A., Kamlesh Kumar Yadav

with

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 29769 of 2023

Applicant :- Vimla Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Janardan Yadav, Pradeep Yadav

Counsel for Opposite Party :- G.A., Kamlesh Kumar Yadav

Hon'ble Samit Gopal, J.

1. List revised.
2. Heard Sri Sarvesh Kumar Pandey, Advocate holding brief of Sri Pradeep Yadav, learned counsel for the applicants, Sri Kamlesh Kumar Yadav, learned counsel for the first informant and Sri Ajay Singh, learned A.G.A.-I for the State and perused the material on record.
3. These two bail applications are connected as they arise out of same case crime number and are being decided together by a common order.
4. These bail applications under Section 439 of Code of Criminal Procedure have been filed by the applicants- **Nandlal Yadav** and **Vimla Devi**, seeking enlargement on bail during trial in connection with Case Crime No. 135 of 2023, under Sections 34, 201, 306, 498-A I.P.C., Police Station Tarwa, District Azamgarh.
5. The first information report of the present matter was lodged on 01.06.2023 by Ramavtar Yadav against the applicants, Sanjay Yadav (husband), Pradeep @ Guddu Yadav (devar) and Gulab Yadav (devar) alleging therein that his sister Anju was married with Sanjay Yadav in the year 2007. She had two children. The accused persons due to dispute of partition of property used to torture his sister. On 30.05.2023 at about 12 pm his sister consumed some poisonous substance and committed suicide after which without informing him & his family members she was cremated.

6. Learned counsel for the applicants argued that Nand Lal is the father-in-law whereas Vimla Devi is the mother-in-law of the deceased Anju. It is argued that the applicants have been falsely implicated in the present case. It is argued that on 29.05.2023 the younger son of the applicants was married and had come home on 30.05.2023 along with his wife. It is argued that there was some dispute going on with the deceased within the family with regards to partition of property. The deceased consumed some poisonous substance and committed suicide. It is argued that the family members of the deceased were informed about the incident well in time. Learned counsel for the applicants argued that there is no abetment and instigation of any kind by the applicants which has any nexus with the death of the deceased, the applicants have no *mens-rea* at all, there is no overt act whatsoever of the applicants, which resulted in the death of the deceased, the applicants have no motive at all to commit the aforesaid offence. The applicant Nand Lal has no criminal history as stated in para 54 of the affidavit and is in jail since 02.07.2023. The applicant Vimla Devi has also no criminal history as stated in para 20 of the affidavit and is in jail since 02.06.2023.

7. *Per contra*, learned counsel for the first informant and learned counsel for the State have vehemently opposed the prayer for bail and argued that Roshni Yadav 13 year old daughter of the deceased has supported the prosecution case and has stated about the dispute between the accused persons and the deceased and also the fact that the deceased was not provided a place to live in the house after which she consumed some poisonous substance and committed suicide. It is argued that there was no attempt by the family members to save the life of the deceased. It is argued that the applicants are named in the first information report and there are allegations against them.

8. After having heard learned counsel for the parties and perusing the record, it is evident that the case is of the deceased committing suicide. In so far as the applicants are concerned, they are father-in-law and mother-in-law of the deceased. There was a dispute going on within the family with regards to partition of property in which the deceased was demanding some portion. There is no abetment and instigation of any kind by the applicants which has any nexus with the death of the deceased, the applicants have no *mens-rea* at all, there is no overt act whatsoever of the applicants, which resulted in the death of the deceased, the applicants have no motive at all to commit the aforesaid offence.

9. 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.

10. Let the applicants- **Nandlal Yadav** and **Vimla Devi**, 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 applicants are 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.

11. 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.

12. The bail application is **allowed**.

Order Date :- 6.11.2023

AS Rathore

(Samit Gopal,J.)