

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49126 of 2022

Applicant :- Shafeena Begum @ Bibiya

Opposite Party :- State of U.P.

Counsel for Applicant :- Rakesh Chandra, Ashok Kumar Mishra, Dharmesh, Vivek Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri V.C. Srivastava, Advocate holding brief of Sri V.K. Sriastava, learned counsel for the applicant and Sri S.B. Singh, learned A.G.A. for the State.
2. The instant bail application has been filed on behalf of the applicant seeking release on bail in Case Crime No. 77 of 2021 under section 304 Police Station Raipur, District Sonbhadra.
3. Learned counsel for the applicant submits that this is second bail application filed on behalf of the applicant and the first bail application has been dismissed by this Court on 27.11.2021 and he is pressing the instant application on the ground that applicant is a lady and she is in jail since 28.07.2021 i.e. for more than two years and till date trial of the case could not be concluded.
4. He next argued, in the chargesheet there are as many as 13 prosecution witnesses and out of them only two witnesses could be examined by the trial court till date and there is no hope of early disposal of the trial. Therefore, considering the facts and circumstances of the case argued above, applicant may be enlarged on bail.
5. *Per contra*, learned A.G.A. opposed the prayer for bail and submits this is second bail application filed on behalf of the applicant and the first bail application was dismissed by this Court on merit but he could not dispute the fact that applicant is a lady and is facing trial under section 304 IPC and she is in jail since 28.07.2021 i.e. for more than two years.
6. I have heard both the parties and perused the record of the case.

7. However, this is second bail application filed on behalf of the applicant and the first bail application was dismissed by this Court on merit on 27.11.2021 but from the record it is reflected that applicant is a lady and she is facing trial under section 304 IPC and she is in jail since 28.07.2021 i.e. for almost two and a half years.

8. Therefore, considering the long incarceration of the applicant and the fact that she is a lady, in my view, applicant is entitled to be enlarged on bail.

9. Let the applicant **Shafeena Begum @ Bibiya** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

10. In case of breach of any of the above conditions, the prosecution will be at liberty to move an application before this Court for cancellation of bail of the applicant.

11. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 26.10.2023

Madhurima