

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51755 of 2021

Applicant :- Vimla

Opposite Party :- State Of U.P Thru Secretary Home Govt. Up. Lknw.

Counsel for Applicant :- Rajeev Kumar Saxena, Abhishek Tiwari, Rahul Mishra, Sarvesh Kumar Dubey, Satya Dheer Singh Jadaun

Counsel for Opposite Party :- G.A., Adarsh Shukla, Ambreesh Kumar, Ganesh Kumar, Hemant Kumar Singh

Hon'ble Sameer Jain, J.

1. Vide order dated 08.11.2023, Hon'ble The Chief Justice nominated the instant bail application to this Bench.
2. Heard Shri Swatantra Kumar Singh, Advocate holding brief of Shri Sarvesh Kumar Dubey, learned counsel for the applicant, Shri Suresh Bahadur Singh, learned A.G.A. for the State-respondent and Shri Ambreesh Kumar, learned counsel for the informant.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No.248 of 2021, under Sections 147, 326, 302, 34 IPC, Police Station Bela, District Auraiya, during pendency of the trial in the court below.
4. FIR of the present case was lodged on 05.09.2021 against applicant and five others and according to the FIR the niece of the informant aged about 6-7 years informed him that her mother was being dragged by the applicant and others from her home and they by pouring petrol

ablazed her and after receiving information informant arrived at the home of accused then find that her Bhabhi (deceased) have burnt.

5. Learned counsel for the applicant submits that on the basis of false allegation applicant has been made accused in the present matter. He further submits that except the statement of the niece of the informant aged about 6-7 years, there is no cogent evidence against the applicant on record and only being collateral devrani of co-accused Shashi, applicant has been made accused in the present matter. He further submits that admittedly deceased was found in burn condition in the house of co-accused Shashi.

6. He next submits that co-accused Shashi was having motive to commit instant alleged crime and applicant was not having any motive to commit the instant crime. He further submits that star witness of the prosecution i.e. niece of the informant aged about 6-7 years has already been examined by the trial Court and therefore, there is no chance of tampering with the prosecution evidence. He further submits that in the charge-sheet, there are as many as sixteen prosecution witnesses and out of them till date only three prosecution witnesses could be examined and therefore, it appears that trial of the case is moving with languid pace and there is no hope of its early disposal. He next submits that however, bail application of co-accused Deepak and Shashi has been dismissed by this Court but law is settled that there is no parity of the bail rejection order and even case of applicant is distinguishable from the case of both the aforesaid co-accused persons.

7. He further submits that applicant is the lady and she is not having any previous criminal history and she is in jail in the present matter since 06.09.2021 i.e. for more than two years. four months, therefore, she may be released on bail.

8. He further submits that applicant is not having any previous criminal history and he is in jail in the present matter since 30.06.2023 i.e. for more than four months.

9. Per contra, learned A.G.A. for the State as well as learned counsel for the informant opposed the prayer for bail and submits that it is a case, in which a lady was dragged in the house of co-accused Shashi and thereafter she was ablazed and there is eye-witness account of the incident and eye-witness is the niece of the informant aged about 6-7 years and she is consistent from the beginning and she also disclosed the name of the applicant and applicant was present at the time of the incident in the house of the co-accused Shashi where the incident occurred and she is collateral devrani of the co-accused Shashi. They further submits that bail application of the co-accused Shashi has already been dismissed, therefore, considering the totality of the facts and circumstances of the case, the applicant, who is although a lady, is not entitled to be released on bail.

10. I have heard learned counsel for both the parties and perused the record of the case.

11. From the record, it reflects that on the basis of information given by 6-7 years old niece of the informant, applicant and others were made accused in the present

matter and according to the girl, applicant and other co-accused persons after taking the deceased in the house of the co-accused Shashi ablated her and the girl i.e. daughter of the deceased stated that applicant was present at the time of the incident in the house of the co-accused Shashi alongwith other co-accused persons and same statement was given by number of other witnesses.

12. Further, applicant is collateral devrani of the co-accused Shashi and co-accused Shashi was having motive to commit the murder of the deceased.

13. Further, bail application of co-accused Deepak and Shashi has already been dismissed by this Court on merit and on merit, there is no distinction in the case of the applicant and co-accused Deepak and Shashi.

14. Therefore, considering the nature of allegation and material available against the applicant on record, prima-facie, at this stage, it cannot be said that the applicant was not involve in commission of the instant crime, therefore, I am not inclined to released the applicant on bail. Accordingly, the instant bail application filed by the applicant - **Vimla** is **rejected**.

15. However, considering the fact that applicant is a lady and is in jail for more than two years, trial court is directed to conclude the trial of the case within a period of nine months from the date of production of certified copy of this order, on day to day basis without granting any unnecessary adjournments to either of the parties, if there is no legal impediments.

16. 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 :- 20.11.2023

Zafar