

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50864 of 2022

Applicant :- Smt. Shobha Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Rupendra Kumar Mishra, Alok Kumar Srivastava, Basharat Ali Khan, Salman Ahmad

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth, J.

Heard Sri Basharat Ali Khan, learned counsel for the applicant and learned A.G.A for the State.

There are allegations against the applicant of causing the offence of murder and criminal conspiracy.

Learned counsel for the applicant submits that the correct facts are that the deceased, namely, Virendra Singh, was tenant in the house of applicant along with his brother, Vikram Singh (informant), sister and brother-in-law. The tenants had ill-eye against the daughter of applicant and therefore they were ousted from house of the applicant. The husband of applicant had lodged an FIR against the deceased and other co-accused under Sections- 363, 366 and Section 7/8 of POCSO Act on 09.03.2020. After sometime the deceased, Virendra Singh, came to the house of applicant and requested him to withdraw the earlier FIR lodged by her husband on 09.03.2020. He also sought shelter in the house of applicant which she refused. In order to terrorise her, he went on the roof and put himself on fire and he died consequently.

Learned counsel for the applicant also submits that it is a case of false implication of the applicant. He has pointed out to the statements of the witnesses recorded by the investigating officer which proves that the deceased put himself on fire inside the house of applicant. He has also pointed that the ambulance driver who took the deceased stated before the police that when he was taking the deceased to the hospital in his ambulance, he had made a video of the deceased regarding his statement which he has given to the police after making the C.D of the same.

Learned counsel for the applicant has further submitted that the

C.D was not supported by any certificate under Section 65- of Evidence Act. The applicant is in jail since 14.03.2022 and has no criminal history to her credit. She is entitled to benefit of Section 437 Cr.P.C.

Learned A.G.A has vehemently opposed the bail application but could not dispute the aforesaid facts of counsel for the applicant.

Keeping in view the nature of the offence, evidence, complicity of the accused; submissions of the learned counsel for the parties noted above; finding force in the submissions made by the learned counsel for the applicant; keeping view the uncertainty regarding conclusion of trial; one sided investigation by police, ignoring the case of accused side; applicant being under-trial having fundamental right to speedy trial; larger mandate of the Article 21 of the Constitution of India; considering the dictum of Apex Court in the case of **Satendra Kumar Antil vs. C.B.I., passed in S.L.P (Crl.) No. 5191 of 2021**; considering 5-6 times overcrowding in jails over and above their capacity by the under trials 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.

Let the applicant, Smt. Shobha Singh, involved in Case Crime No. 48 of 2022, under Sections- 302, 120-B IPC, Police Station- Kalpi, District- Jalaun, 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 the evidence or threaten the witnesses.

(ii) The applicant shall file an undertaking to the effect that she shall not seek any adjournment on the dates 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.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of her absence, without sufficient cause, the Trial Court may proceed against her under Section 229-A of the Indian Penal Code.

(iv) In case the applicant misuses the liberty of bail during trial and in order to secure her presence, proclamation under Section 82

Cr.P.C. is issued and the applicant fails to appear before the Court on the date fixed in such proclamation then the Trial Court shall initiate proceedings against her in accordance with law under Section 174-A of the Indian Penal Code.

(v) The applicant shall remain present in person before the Trial Court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) 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.

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

Identity and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 13.12.2023

Rohit