

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43312 of 2023

Applicant :- Sugiya Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashish Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. Heard Sri Kundan Mishra, Advocate holding brief of Sri Ashish Kumar, learned counsel for the applicant and Sri Bade Lal Bind, learned counsel for the State and perused the material on record.

2. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- **Sugiya Devi**, seeking enlargement on bail during trial in connection with Case Crime No. 214 of 2023, under Sections 498-A, 304-B I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station Trukpatti, District Kushinagar.

3. Learned counsel for the applicant argued that the applicant is the mother-in-law of the deceased Madhuri Patel. She has been falsely implicated in the present case. It is argued that the marriage of Madhuri Patel the daughter of the first informant was solemnized with Guddu Patel the son of the applicant on 24.02.2023. It is argued that the general and omnibus allegations have been levelled against the applicant and other accused persons. It is argued that the doctor has opined the cause of death is due to asphyxia as a result of antemortem hanging. It is argued while placing para 15 of the affidavit that the applicant is aged about 80 years and was living separately with the deceased and her husband. A copy of electricity receipt dated 15.12.2014 have been placed before the Court which is Annexure-8 of the affidavit. It is further argued that the charge-sheet in the matter has been submitted and as such there are no chances of the applicant tampering with the evidence or threatening the witnesses. It is further argued that co-accused Ramawadhesh Patel the *jeth* of the deceased has been granted bail by this Court vide order dated 06.09.2023 passed in Criminal Misc. Bail Application No. 39300 of 2023, the copy of the said order is annexed as Annexure-10 to the affidavit. It is argued that Guddu Patel the husband of the deceased is in jail. The applicant is a lady and is entitled to the benefit of Section 437 Cr.P.C. The applicant has no criminal history as stated in para 22 of the affidavit and is in jail since 17.06.2023.

4. *Per contra*, learned counsel for the State opposed the prayer for bail and

argued that the applicant is named in the first information report along with other accused persons and there are allegations against her.

5. After having heard learned counsel for the parties and perusing the record, it is evident that the applicant is mother-in-law of the deceased. General and omnibus allegations have been levelled against the applicant and other accused persons in the first information report. The husband of the deceased is in jail. The cause of death of the deceased is asphyxia as a result of antemortem hanging. Co-accused Ramawadhesh Patel the *jeth* of the deceased has been granted bail by this Court.

6. 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 applicant may be enlarged on bail.

7. Let the applicant- **Sugiya 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 applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant 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 applicant shall file an undertaking to the effect that she 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 applicant will not misuse the liberty of bail in any manner whatsoever. 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., may be issued and if 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 I.P.C.

(v) 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 and the trial court may proceed against her 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 applicant.

8. 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 applicant to prison.

9. The bail application is **allowed**.

Order Date :- 28.10.2023

AS Rathore

(Samit Gopal,J.)