

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43836 of 2023

Applicant :- Smt. Ladkunwar

Opposite Party :- State of U.P.

Counsel for Applicant :- Narendra Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Narendra Kumar Tiwari, learned counsel for the applicant and Sri Kunwar Tejendra Bahadur, learned AGA, for the State.
2. The instant bail application has been filed on behalf of the applicant with the prayer to release her on bail in Case Crime No.88 of 2023, under Section 304(2) IPC, Police Station Mauranipur, District Jhansi during pendency of the trial.
3. FIR of the present case was lodged on 18.2.2023 against the applicant and her daughter under Section 304 IPC and according to the FIR, in the intervening night of 17/18.2.2023 applicant along with her daughter assaulted her father through wooden sticks and when informant interfered then applicant and her daughter again assaulted the deceased after locking the door. It is further mentioned in the FIR that in the morning informant found that her son, i.e., deceased was lying dead.
4. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and some dispute with regard to the property was pending between the father of applicant and his brother and deceased was heavy drunker and some dispute arose between them and deceased sustained injuries and subsequently died and after his death on the instigation of her another son, informant, i.e., mother of the deceased lodged FIR of

the present case against the applicant and her daughter.

5. He further submits that applicant is a lady and it is hard to believe that she will cause death of her husband along with her daughter.

6. He further submits that bail application of co-accused Km. Khushabu, i.e., daughter of the applicant has been allowed by this Court and the case of applicant is at par with her.

7. He further submits that applicant is not having any previous criminal history and in the present matter she is in jail since 19.2.2023.

8. Per contra, learned AGA opposed the prayer for bail and submits that from the perusal of the post mortem report of the deceased it appears that deceased sustained as many as 10 ante mortem injuries but could not dispute the fact that applicant is the wife of the deceased and she was challaned under Section 304 (Part-II) IPC.

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

10. Although as per allegation, applicant who is wife of the deceased made assault upon her husband along with her daughter through wooden sticks but applicant is a lady and she has been challaned under Section 304 (Part-II) IPC and she is not having any previous criminal history and she is in jail since February, 2023, i.e., for the last more than six months. Further, co-accused Km. Khushabu has been granted bail by this Court and the case of applicant is at par with her.

11. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on

bail.

12. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

13. Let the applicant-**Smt.Ladkunwar** 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 her 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.

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

15. 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 :- 16.10.2023

SKM