

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44437 of 2023

Applicant :- Beti Bai

Opposite Party :- State of U.P.

Counsel for Applicant :- Nand Kishor Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. Heard Ms. Shilpa Ahuja, learned Advocate holding brief for Sri Nand Kishor Mishra, learned counsel for the applicant as well as Sri Sunil Kumar, learned A.G.A. for the State and perused the material placed on record.
2. Applicant seeks bail in Case Crime No. 180 of 2022, U/S 419, 420, 467, 471 IPC, Police Station Kalinjer, District Banda, during the pendency of trial.
3. As per prosecution story, the applicant, who happens to be the sister of the informant is stated to have fudged his date of death and after declaring him dead, got the property transferred in her name and had subsequently, sold it off.
4. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize her. Learned counsel has next stated that there is a report of the Lekhpal, who has stated that the applicant had deposited the death report of the deceased person dated 18.3.2002 and an inquiry was taken up by other officials, who had stated that the informant was missing from the village for the last 15 years, as such, on the basis of the said missing of the informant, he was declared as a dead person. Thereafter, the said mutation proceedings were undertaken. It is also stated that the applicant is a 77 year old lady and is a bonafide person. The civil suit is pending between the parties as is also evident from the statements.
5. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against her. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length.

It is further stated that there is no criminal history of the applicant. The applicant is languishing in jail since 23.7.2023. In case, the applicant is released on bail, she will not misuse the liberty of bail.

6. Learned A.G.A. has vehemently opposed the bail application, but could not dispute the said fact that applicant has no criminal history.

7. Keeping in view the nature of the offence, evidence on record regarding complicity of the accused, larger mandate of the Article 21 of the Constitution of India 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.

8. Let the applicant- **Beti Bai** who is involved in aforementioned case crime number 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 evidence.

(ii) 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.

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

10. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 30.10.2023
Shalini