

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44909 of 2023

Applicant :- Kanti Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Birendra Singh Khokher

Counsel for Opposite Party :- G.A.

Hon'ble Dr. Gautam Chowdhary, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the material on record.

2. Learned counsel for the applicant contends that the applicant has been falsely implicated in the instant case. The applicant is the mother-in-law of the deceased. The applicant never demanded dowry or did he torture the deceased. In fact, the applicant never interfered in the domestic life of the deceased and her husband. The applicant is bereaved by the death of her daughter-in-law and prays for peace of the departed soul. However, for the purpose of the bail application, it is submitted that the deceased was a temperamental lady who was prone to extreme reactions even on trivial issues. On the fateful day apparently after minor disagreement with her husband, the deceased committed suicide in a fit of rage by hanging herself. The cause of death recorded in the post mortem report is asphyxia due to ante mortem hanging. The hyoid bone was found to be intact. The applicant did not abet or instigate the deceased to commit the suicide. The applicant resides in Bihar whereas, the incident took place at District Gautambudh Nagar. The applicant does not have any criminal history apart from the instant case. The applicant is not a flight risk. The applicant is a law abiding citizen who has cooperated with the police investigation and shall join the trial proceeding. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending. He lastly submits that the father-in-law namely Dhaneshwar Mahto who has been similar role as assigned to the applicant has been enlarged on bail by co-ordinate Bench of this Court dated 09.10.2023 passed in Criminal Misc. Bail

Application No. 42779 of 2023, copy of which has been produced before this Court and is taken on record. The applicant is in jail since 01.07.2023.

3. Learned AGA for the State could not satisfactorily dispute the aforesaid submissions from the record. He does not contest the criminal history of the applicant as disclosed in the bail application.

4. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties, nature of evidence, and all attending facts and circumstances of the case, without expressing any opinion on merits of the case, this Court is of the view that the applicant has made out a case for bail. Hence the bail application is allowed.

5. Let applicant **Kanti Devi** involved in Case Crime No. 184 of 2023 under Sections 498A, 304-B, 34 I.P.C., and Section 3/4 of Dowry Prohibition Act, Police Station Phase I, District Gautambudh Nagar, be released on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

I. The applicant shall file an undertaking to the effect that she shall not seek any adjournment on the dates fixed for evidence and 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.

II. The applicant shall remain present before the trial court on each date fixed, either personally or through her counsel. In case of her absence, without sufficient cause, the trial court may proceed against her under Section 229-A of the Indian Penal Code.

III. In case, the applicant misuses the liberty of bail 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.

IV. 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 default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of her bail and proceed against her in accordance with law.

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

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

Order Date :- 1.11.2023

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