

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44874 of 2023

Applicant :- Shivani

Opposite Party :- State of U.P.

Counsel for Applicant :- Sandeep Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Sri Omkar Singh submits that today he has filed his power on behalf of the informant in the office of this Court and therefore, his name could not be shown in the cause list.

2. Heard Sri Sandeep Kumar Singh, learned counsel for the applicant; Sri Omkar Singh, learned counsel for the informant and Sri Ram Narayan Srivastava, learned AGA for the State-respondent.

3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 123 of 2023, under Sections 302, 201, 34 IPC, Police Station Doghat, District Baghpat, during pendency of the trial in the court below.

4. FIR of the present case was lodged on 15.5.2023 under section 365 IPC against unknown persons and according to the FIR the younger brother of the informant was missed since a day before.

5. Learned counsel for the applicant submitted that the applicant was not named in the FIR and after two months i.e. on 14.7.2023 informant moved an application to the police and stated that on the noise of dogs in the night of 14.5.2023, he witnessed the applicant and two others while they were making some murmuring and thereafter co-accused Sanjeev had taken a sack on the motorcycle.

6. He further submitted that except the above noted evidence there is no other evidence agaisnt the applicant on record.

7. He further submitted that when statement of the informant was recorded under section 161 Cr.P.C. after lodging of the FIR then also he did not make any such allegation and suddenly after two months, he moved an application and implicated the applicant in the present matter.

8. He further submitted that applicant is lady, she is having no criminal history and she is in jail in the present matter since 15.7.2023.

9. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail but could not dispute the arguments on facts advanced by learned counsel for the applicant.

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

11. It appear to be a case of circumstantial evidence and name of the applicant was surfaced after two months through an application moved by informant and informant did not even disclose the name of the applicant in his statement recorded under section 161 Cr.P.C. which was recorded long before the application dated 14.7.2023 and except the allegation made in the application dated 14.7.2023, there is no other allegation and evidence against the applicant on record and even from perusal of the application dated 14.7.2023, it reflects that only allegation against the applicant is that she was having some short conversations with another co-accused Sanjeev and Dheeraj.

12. Further, applicant is lady, she is having no criminal history and she is in jail since 15.7.2023.

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

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

15. Let the applicant-**Shivani**, 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 his 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.

16. 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.

17. 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 :- 26.10.2023

Ankita