

Neutral Citation No. - 2023:AHC:223089

Reserved on 22.11.2023

Delivered on 24.11.2023

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44651 of 2023

Applicant :- Smt. Sakshi

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Om Vikram Singh Chauhan

Counsel for Opposite Party :- G.A., Ambuj Kumar Mishra, Amit Kesharwani, Om Prakash Pandey

Hon'ble Siddharth, J.

Heard Sri Ram Om Vikram Singh Chauhan, learned counsel for the applicant; Sri Om Prakash Pandey, learned counsel for the informant; learned AGA for the State and perused the material placed on record.

The instant bail application has been filed on behalf of the applicant, **Smt. Sakshi**, with a prayer to release her on bail in **Case Crime No. 167 of 2023**, under **Section 306 IPC**, **Police Station Ekdil, Etawah, District- Etawah**, during pendency of trial.

There is allegation in the FIR that marriage of the son of the informant took place with applicant, on 3.4.2022. His son was a truck driver and he often used to remain away from his house. While son of the informant was away with truck, his wife, Sakshi, used to go to her parental home often. The members of matrimonial home of her son reside in Lodhi Mohallah. On 10.7.2023 at 2:00 p.m., her son left the house saying that Sakshi and her family members had called him on phone and he is going to bring Sakshi. When he went to his matrimonial home, he was informed that relatives of Sakshi have gathered at the house of her Mama, Munna, in Village, Navali Adda, Police Station Ekdil. When the son of the informant reached there, he was abused and they stated that they will not send Sakshi with him since he is impotent and will marry her somewhere else after giving handsome amount in dowry. The son of the informant stated that he loves Sakshi and cannot live without her. He requested them to permit him to take Sakshi back, but they used to abusive language and made allegations that he is impotent. They abetted him to commit suicide so that Sakshi gets free. Being hurt by their conduct, the son of the informant put himself on fire. Some people made video of the incident and send it to the informant and then they came to know about the entire incident.

Learned counsel for the applicant has submitted that it is a case of false implication of the applicant. The deceased committed suicide because of his own frustration by pouring inflammable substance over his body. No one abetted his suicide. The applicant never abetted the deceased to commit suicide. The applicant is wife of the deceased. No direct allegation is made against the applicant. She has stated nothing against her husband as alleged in the FIR that he was impotent. Her relatives may have taunted him. There is no material on record to prove that she was unwilling to go with her husband (the deceased). The applicant has been falsely implicated in this case. She has no criminal history to her credit and is languishing in jail since 4.9.2023. In case, the applicant is released on bail, she will not misuse the liberty of bail.

Learned counsel for the informant has vehemently opposed the prayer for bail of the applicant and submitted that it is a case of murder and not suicide. The applicant side are influential persons and hence they have not permitted fair investigation. The informant approached this Court for fair investigation and also the Chief Minister in vain.

Learned A.G.A. has also opposed the bail prayer of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, she does not deserves any indulgence. In case the applicant is released on bail she will again indulge in similar activities and will misuse the liberty of bail.

Having considered the submissions of the parties noted above, larger mandate of the Article 21 of the Constitution of India, considering the dictum of Apex Court in the case of ***Satendra Kumar Antil Vs. C.B.I. & Another, passed in S.L.P.(Crl.) No. 5191 of 2021, judgement dated 11.7.2022 and considering 5-6 times overcrowding in jails over and above their capacity by under trials*** and without expressing any opinion on the merits of the case, let the applicant involved in the aforesaid crime 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 with the following conditions that :-

- (i) The applicant shall not tamper with the evidence or threaten the witnesses.
- (ii) The applicant shall file an undertaking to the effect that she shall not seek any adjournment on the dates 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.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of her absence, without sufficient cause, the Trial Court may proceed against her under Section 229-A of the Indian Penal Code.

(iv) In case the applicant misuse the liberty of bail during trial 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.

(v) 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 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.

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

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

Order Date :- 24.11.2023

Ruchi Agrahari