

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44853 of 2023

Applicant :- Atwari Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Vishveshwar Mani Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Vishveshwar Mani Tripathi, learned counsel for the applicant and Sri Jhamman Ram, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 237 of 2023, under Sections 498A, 323, 304-B IPC and Section 3/4 D.P. Act, Police Station Rampur Karkhana, District Deoria, during pendency of the trial in the court below.

3. FIR of the present case was lodged against the applicant, her husband and son and according to the FIR, marriage of the son of the applicant was performed with the deceased on 1.6.2023 and after marriage applicant and her family members tortured her for a car in dowry and on 2.7.2023 i.e. within one month of her marriage, informant received an information that her daughter i.e. deceased had died.

4. It is further mentioned in the FIR that due to the non-fulfillment of demand of dowry applicant and her family members committed the murder of the deceased.

5. Learned counsel for the applicant submitted that applicant is mother-in-law of the deceased and on the basis of false allegation of demand of dowry and torture, she has been made accused in the present matter.

6. He further submitted that deceased was connected with orchestra group of one Sushil Kumar Dancer and even after marriage he on his instigation used to make videos and after marriage when son of the applicant i.e. husband of the deceased objected then she became annoyed and within one month of her marriage she committed suicide.

7. He further submitted that it is hard to believe that within one month of her marriage deceased was being tortured for demand of dowry by the applicant and her family members.
8. He further submitted that post mortem report of the deceased also suggests that she died due to hanging.
9. He further submitted that applicant is lady, she is having no criminal history and she is in jail in the present matter since 4.7.2023.
10. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is mother-in-law and her daughter-in-law died under abnormal circumstances within one month of her marriage and there is also allegation of demand of dowry but he could not dispute the fact that there is no specific allegation against the applicant and from perusal of the photographs of the deceased and Sushil Kumar Dancer, it appears that deceased was connected with his orchestra group.
11. I have heard learned counsel for the parties and perused the record of the case.
12. However, it appears that daughter-in-law of the applicant died within one month of her marriage under abnormal circumstances and there is allegation of demand of dowry but it further reflects that applicant is mother-in-law and there is no specific allegation has been made against her.
13. Further, in paragraph-14 of the affidavit applicant has been averred that deceased was having some connection with orchestra group of one Sushil Kumar Dancer and even after marriage, she remained connected with him and in this regard, some photographs have also annexed alongwith the instant bail application which strengthen the defence version and therefore, the defence taken by the applicant cannot be completely brushed aside, at this stage.
14. Further, applicant is lady and she is in jail in the present matter since July, 2023.
15. Therefore, considering the facts and circumstances of the case, discussed above, in my view, applicant is entitled to be released on bail.
16. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

17. Let the applicant-**Atwari Devi**, 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 her 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.

18. 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.

19. 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