

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45472 of 2023

Applicant :- Seema Alias Divya

Opposite Party :- State of U.P.

Counsel for Applicant :- Suneel Kumar Rai, Sabya Sachee Rai

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Sri Atul Kumar Kulshrestha, Advocate, filed his power today on behalf of informant, which is taken on record.

2. Heard Sri Suneel Kumar Rai, learned counsel for the applicant, Sri Atul Kumar Kulshrestha, learned counsel for the informant and Sri Manoj Kumar Singh, learned brief holder for the State-respondent.

3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 722 of 2021, under Sections 302 IPC, Police Station- Tronica City, District- Ghaziabad, during pendency of the trial in the court below.

4. FIR of the present case was lodged on 29.10.2021 against the applicant and four others through an application under Section 156 (3) Cr.P.C. dated 09.08.2021 and according to the F.I.R, son of the informant was in rehabilitation centre as he used to consume liquor and on 07.07.2021, applicant informed the informant that condition of her son is serious and when informant arrived at rehabilitation centre then found that her son has died and his entire body was blue.

5. It is further mentioned in the FIR that she raised suspicion against the applicant and other accused persons, who were present at the rehabilitation centre, that after administering some poisonous substance, her son has been murdered but in spite of that no action was taken. It is further mentioned in the FIR that applicant and other nominated accused persons have committed the murder of her son.

6. Learned counsel for the applicant submitted that FIR of the present case was lodged through an application under Section

156(3) Cr.P.C. and even application under Section 156(3) Cr.P.C was moved after more than a month. He further submitted that merely on the basis of suspicion, applicant has been roped in the present matter. He further submitted that except suspicion there is no other evidence against the applicant on record.

7. He further submitted that although, in the FIR informant narrated that her son i.e. deceased was admitted in rehabilitation centre for his treatment but in her statement recorded under Section 161 Cr.P.C., she stated that applicant and other accused persons run the rehabilitation centre and her son i.e. deceased was employee over there and as for last four years applicant and other accused person were not paying salary to him and when he insisted for his salary then instead of given salary to him, applicant and accused persons committed his murder by administering some poisonous substance but expect the bald and verbal allegation, there is no evidence in this regard on record.

8. He further submitted that actually applicant is lady and she was having love affair with co-accused Jahid, who run the rehabilitation centre and only due to this reason applicant has been made accused in the present matter.

9. He further submitted that applicant is not having any criminal history and she is in jail since 06.05.2023.

10. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that actually rehabilitation centre was a run by the applicant and other accused persons and in the rehabilitation centre deceased was employed and as deceased died under abnormal circumstances due to consumption of poisonous substance, therefore, it was the responsibility of the applicant and other accused persons to explain his death and ,therefore, considering the totality of the facts and circumstances of the case, applicant should not be released on bail.

11. I have heard both the parties and perused the record of the case.

12. From the record, it reflects that it is a case of circumstantial evidence and FIR of the present case was lodged through an application under Section 156(3) Cr.P.C and even application under Section 156 (3) Cr.P.C. was moved after more than a month.

13. Further, from the record, it reflects that merely on the basis of the fact that applicant also runs the rehabilitation centre alongwith

other accused persons, where as per the prosecution, deceased was employed, was made accused in the present matter and except suspicion, there is no other evidence against the applicant on record.

14. Further, from the perusal of the record, it reflects that deceased died due to consumption of ethial alcohol, therefore, it cannot be ruled out at this stage that he might have consumed the same himself.

15. Further, applicant is a lady and she is not having any criminal history and is in jail since 06.05.2023.

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

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

18. Let the applicant- **Seema Alias Divya** 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.

19. 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.

20. 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 :- 28.10.2023

KK Patel