

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45432 of 2023

Applicant :- Sonam @ Soni Chauhan

Opposite Party :- State of U.P.

Counsel for Applicant :- Subhash Chandra Yadav

Counsel for Opposite Party :- G.A.,Ravindra Kumar Yadav,Sandeep Kumar Yadav

Hon'ble Samit Gopal,J.

1. List revised.

2. Heard Sri Subhash Chandra Yadav, learned counsel for the applicant, Sri Ravindra Kumar Yadav, learned counsel for the first informant and Sri Birendra Pratap Singh, learned counsel for the State and perused the material on record.

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- **Sonam @ Soni Chauhan**, seeking enlargement on bail during trial in connection with Case Crime No. 201 of 2023, under Sections 498-A, 304-B I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station Gambhirpur, District Azamgarh.

4. Learned counsel for the applicant argued that the applicant is the married *nand* (sister-in-law) of the deceased Smt. Aarti Chauhan. She has been falsely implicated in the present case. It is argued that the marriage of Aarti Chauhan was solemnized with Rahul Chauhan the brother of the applicant on 24.06.2019. It is further argued that general and omnibus allegations have been levelled against the applicant and all the accused persons. The cause of death of the deceased could not be ascertained and viscera was preserved. The viscera report is still awaited. The doctor did not find any bodily injury on the body of the deceased. It is further argued while placing paragraph 21 of the affidavit that the applicant was married to Raj Kumar resident of Village Bhauravepur, P.S. Baharia, District Ghazipur in the year 2019 and thus is living separately. Further while placing paragraph 22 it is argued that the applicant is in jail with her three year old female child. It is argued that co-accused Monam Chauhan the unmarried *nand* of the deceased has been granted bail by a co-ordinate Bench of this Court vide order dated 10.10.2023 passed in Criminal Misc. Bail Application No. 35033 of 2023, the copy of the said order is annexed as Annexure-9 to the affidavit. The applicant is a lady and is entitled to the benefit of Section 437 Cr.P.C. The applicant has no criminal history as stated in para 25 and is in jail since 04.08.2023.

5. *Per contra*, learned counsel for the first informant has opposed the prayer for bail and argued that in the bail of co-accused Musafir Chauhan and another being Criminal Misc. Bail Application No. 45419 of 2023 vide order dated

28.10.2023 counter affidavit has been called for by a co-ordinate Bench of this Court. Copy of the said order has been placed before the Court which is taken on record. It is argued that the applicant is involved in the matter.

6. Learned counsel for the State has also opposed the prayer for bail.

7. After having heard learned counsel for the parties and perusing the record, it is apparent that the applicant is the married *nand* (sister-in-law) of the deceased. General and omnibus allegations have been levelled against the applicant and other accused persons in the first information report. The applicant is a lady. Co-accused Monam Chauhan the unmarried *nand* of the deceased has been granted bail by a co-ordinate Bench of this Court.

8. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

9. Let the applicant- **Sonam @ Soni Chauhan**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that she shall not seek any adjournment on the date 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.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure her presence proclamation under section 82 Cr.P.C., may be issued and if 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 I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) 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 and the trial court may proceed against her under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

10. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

11. The bail application is **allowed**.

Order Date :- 7.11.2023

AS Rathore

(Samit Gopal,J.)