

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46403 of 2023

Applicant :- Smt. Savatri

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Raj Pandey, Shubham Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal, J.

1. Heard Sri Shubham Pandey, learned counsel for the applicant and Sri Birendra Pratap Singh, learned counsel for the State and perused the material on record.

2. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- **Smt. Savatri**, seeking enlargement on bail during trial in connection with Case Crime No. 633 of 2023, under Sections 498-A, 304-B, 201 I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station Bistrakh, District Gautam Budh Nagar.

3. The first information report of the present matter was lodged on 05.08.2023 by Shiv Dayal against the applicant and 03 other persons alleging therein that his daughter Viresh Kali was married around two years back to Mukesh the son of the applicant. After marriage the accused persons were not happy with less dowry and used to torture and trouble his daughter. There was demand of Rs. 03 lakhs as dowry and due to non-fulfillment of the same, the accused persons murdered his daughter on 04.08.2023 by giving her poison.

4. Learned counsel for the applicant argued that the applicant is the mother-in-law of the deceased Viresh Kali. It is argued the Mukesh the husband of the deceased is in jail. It is further argued while placing paragraph 13 of the affidavit that both the members of the family had collected and participated in the cremation of the deceased. Learned counsel while placing Annexure-3 of the affidavit has argued that the family members of the deceased were present at the time of cremation which is noted by the Investigating Officer in the case diary. It is next argued while placing paragraph 8 of the affidavit that the applicant is aged about 65 years. Learned counsel has argued that the relationship of the deceased with her husband was cordial as would appear from the fact that one child was born from the wedlock. Paragraph 17 has been placed for the same.

The applicant is a lady and is entitled to the benefit of Section 437 Cr.P.C. It is argued that charge-sheet in the matter has been submitted and as such there are no chances of the applicant tampering with the evidence or threatening the witnesses. The applicant has no criminal history as stated in para 23 and is in jail since 05.08.2023.

5. Per contra, learned counsel for the State has opposed the prayer for bail.

6. After having heard learned counsel for the parties and perusing the record, it is apparent that the mother-in-law of the deceased. As the noting of the Investigating Officer the family members of the deceased were present at the time of cremation of dead body. The husband of the deceased is in jail.

7. 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.

8. Let the applicant- **Smt. Savatri**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties (**one of the sureties will be of family members and the other will be of a local person**) 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.

9. 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.

10. The bail application is **allowed**.

Order Date :- 2.11.2023
AS Rathore

(Samit Gopal,J.)