

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46532 of 2023

Applicant :- Champa Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Arvind Kumar Maurya, Om Prakash Verma

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Arvind Kumar Maurya, learned counsel for the applicant and Sri Rajeev Dhar Dwivedi, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 405 of 2023, under Sections 498-A, 304-B IPC & 3/4 D.P. Act, Police Station-Kotwali, District- Ballia, during pendency of the trial in the court below.
3. FIR of the present case was lodged against applicant and her son i.e. husband of the deceased and according to the FIR, marriage of the daughter of the informant was performed with the son of the applicant on 06.05.2023 and after marriage, applicant and her son tortured her for dowry and on 28.07.2023 they have committed her murder.
4. Learned counsel for the applicant submitted that applicant is the 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.
5. He further submitted that actually on 26.07.2023 when deceased was returning back to her home from Varanasi alongwith the applicant and her son i.e. husband of the deceased by train then accidentally she slipped from the compartment and died. He further submitted that immediately after the incident, son of applicant has taken the deceased to the hospital and from the case sheet of the department of general surgery of Maharshi Vishwamitra Autonomous State Medical College, Ghazipur, it reflects that it was accidental case. He further submitted that post-mortem report of the deceased also suggests that deceased died due to train accident.

6. He further submitted that applicant is a lady and she is not having any criminal history and is in jail since 16.09.2023.

7. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the fact that deceased died due to crushing from train and there is no eye-witness account, who can said that applicant also accompanied the deceased and her husband in the train. He further could not dispute the fact that only general allegation has been levelled against the applicant.

8. I have heard learned counsel for the parties and perused the record of the case.

9. However, applicant is the mother-in-law of the deceased and his daughter-in-law died within two and half months of her marriage under abnormal circumstances and there is also allegation of demand of dowry but as per the prosecution, deceased died due to crush injury caused by the train.

10. Further, as per the informant, when deceased was traveling in the train alongwith applicant and her husband then they pushed her and, therefore, she died but according to the defence, while traveling by the train, accidentally deceased slipped and died.

11. Admittedly informant is not an eye-witnesses and during investigation, no eye-witness could come forward, who can state that applicant was present in the train alongwith the deceased and her husband and defence taken by the applicant cannot be ruled out at this stage.

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

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

14. Let the applicant- **Champa 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 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.

15. 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.

16. 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 :- 20.11.2023

KK Patel