

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46700 of 2023

Applicant :- Pooja Chauhan

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Sanjay Kumar Dubey, learned counsel for the applicant and Sri Amar Nath Vishwakarma, 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. 459 of 2023, under Sections 406, 306 IPC, Police Station Kotwali Nagar, District Etah, during pendency of the trial in the court below.
4. FIR of the present case was lodged on 22.6.2023 under sections 406 and 302 IPC against the applicant and two others through an application under section 156 (3) Cr.P.C. dated 10.5.2023 and according to the FIR husband of the informant was doing a job in a clinic but after the death of the doctor, the clinic was being running by the applicant and she did not provide salary to the husband of the informant and on 27.4.2023 applicant and other accused informed the informant that her husband has consumed some substance and died.
5. It is further mentioned in the FIR that without post mortem, dead body of the husband of the informant has been disposed off.
6. It is further mentioned in the FIR that due to the dispute with regard to the payment of the salary, applicant and other accused persons have committed murder of the husband of the informant.
7. Learned counsel for the applicant submitted that although initially FIR of the present case was lodged under sections 406, 302 IPC but during investigation, matter was converted under section 306 IPC.
8. He further submitted that actually husband of the informant consumed some poison and subsequently, he died and after the incident he was taken to the hospital but after his death, his brother has taken the dead body of the deceased and disposed of the same

and after about more than two weeks on the basis of false allegation, application under section 156 (3) Cr.P.C. was moved.

9. He further submitted that there is no evidence on record which can show that due to the abetment of the applicant, deceased died.

10. He further submitted that applicant is lady, she is having no criminal history and she is in jail in the present matter since 2.9.2023.

11. Per contra, learned AGA opposed the prayer for bail but could not dispute the arguments on facts advanced by learned counsel for the applicant.

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

13. Although, FIR of the present case was lodged under section 302 IPC with the allegation that applicant and other accused persons committed the murder of the deceased but subsequently case was converted under section 306 IPC.

14. Further, from the record it reflected that the dead body of the deceased has been disposed off and therefore, post mortem could not be conducted.

15. Further, as per the allegation, applicant and other accused persons disposed off the body of the deceased but from annexure-SA-1 filed alongwith the supplementary affidavit, it reflects that during the treatment without informing the doctor, brother of the deceased namely, Sonu has taken him and therefore, defence taken by the applicant cannot be disbelieved, at this stage.

16. Further, from the entire record, abetment of the applicant is not reflecting, at this stage.

17. Further, applicant is lady, she is having no criminal history and she is in jail in the present matter since 2.9.2023.

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

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

20. Let the applicant-**Pooja Chauhan**, 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.

21. 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.

22. 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 :- 2.11.2023

Ankita