

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47231 of 2023

Applicant :- Neha

Opposite Party :- State of U.P.

Counsel for Applicant :- Pankaj Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Gyanendra Prakash Srivastava, learned Advocate, holding brief of Sri Pankaj Srivastava, learned counsel for the applicant and Dr.S.B.Maurya, learned AGA-I, for the State.

2. The instant bail application has been filed on behalf of the applicant with the prayer to release her on bail in Case Crime No.558 of 2023, under Section 302 IPC, Police Station Baghpat, District Baghpat during pendency of the trial.

3. FIR of the present case was lodged against two persons (non applicant) and according to the FIR, on 7.7.2023 the younger brother of the informant died and informant received information that due to electrocution he died but subsequently he came to know that nominated accused persons committed his murder by forcibly electrocuted him.

4. Learned counsel for the applicant submits that applicant was not named in the FIR but when the statement of the informant was recorded under Section 161 Cr.P.C. then without any evidence he disclosed the name of applicant by stating that applicant is the wife of his nephew and she along with her husband and nominated co-accused Manish Pandit committed the murder of the deceased with intention to grab his property.

5. He further submits that except the vague allegation made by

informant in his statement recorded under Section 161 Cr.P.C. there is no other evidence against the applicant on record.

6. He further submits that applicant is lady and she is not having any previous criminal history and in the present matter she is in jail since 9.7.2023.

7. Per contra, learned AGA although opposed the prayer for bail but could not dispute the fact that except the statement of the informant recorded under Section 161 Cr.P.C., there is no other evidence against the applicant on record. He further could not dispute the fact that informant of the case is not the eye witness.

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

9. From the record it reflects that applicant was not named in the FIR and on the basis of suspicion informant in his statement under Section 161 Cr.P.C. disclosed her identity and informant is not the eye witness.

10. Further, applicant is lady and she is not having any previous criminal history and in the present matter she is in jail since July, 2023.

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

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

13. Let the applicant-**Neha** 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 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.

14. 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.

15. 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 :- 21.11.2023
SKM