

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46997 of 2023

Applicant :- Mamta Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Sugendra Kumar Yadav, Anand Prakash Srivastava

Counsel for Opposite Party :- G.A., R S Dubey, Savita Dubey

Hon'ble Sameer Jain, J.

1. Sri R.S. Dubey, Advocate filed his power on behalf of the informant in the office of this Court and therefore, his name could not be shown in the cause list.
2. Heard Sri Anand Prakash Srivastava, learned counsel for the applicant; Sri R.S. Dubey, learned counsel for the informant and Sri Shatrughan Yadav, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 271 of 2023, under Sections 323, 504, 352, 304 IPC, Police Station Rampur Karkhana, District Deoria, during pendency of the trial in the court below.
4. FIR of the present case was lodged against the applicant and three others and according to the FIR applicant and other co-accused persons were collaterals of informant and they made assault upon the father of the informant in his absence through wooden sticks, kicks and fists and due to the assault made by them his father died.
5. Learned counsel for the applicant submitted that on the basis of general and omnibus allegation, applicant who is lady has been made accused in the present case alongwith three others.
6. He further submitted that admittedly informant of the case is not an eyewitness and in the present matter subsequently Investigating Officer recorded the statements of the two eye witnesses but they also repeated the version of the FIR.
7. He further submitted that applicant is lady and there was no occasion for her to participate in the alleged crime.

8. He further submitted that bail application of co-accused Nirmla Devi has been allowed by the co-ordinate bench of this Court vide passed today i.e. 3.11.2023 in Crl. Misc. Bail Application No. 45936 of 2023 and case of applicant is at par with them.

9. He further submitted that applicant is lady, she is having no criminal history and he is in jail in the present matter since 5.8.2023.

10. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail but could not dispute the fact that co-accused Nirmla Devi has been released on bail by the co-ordinate Bench of this Court and case of the applicant is at par with her.

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

12. Considering the fact that applicant is lady and there is only general allegation against the applicant in the present case and co-accused Nirmla Devi has been allowed by this Court and case of applicant is at par with her, in my view, applicant is also 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-**Mamta 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 :- 3.11.2023

Ankita