Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48065 of 2023

Applicant :- Vidhya Devi
Opposite Party :- State of U.P.
Counsel for Applicant :- Santosh Kumar Gupta
Counsel for Opposite Party :- G.A.

Hon'ble Siddharth,J.

Heard learned counsel for the applicant and learned A.G.A. for the State.

There is allegation against the applicant of causing dowry death of her daughter-in-law.

Learned counsel for the applicant submits that the marriage of the couple took place in the year 2017. Applicant used to reside with her younger son at Moradabad. On account of dispute between the couple incident took place wherein deceased was throttling to death. Applicant has been falsely implicated in this case. She has nothing to do with the couple. Applicant is in jail since 17.08.2023 and has no criminal history her credit.

Learned AGA has opposed the prayer for bail but could not dispute the above submissions.

Keeping in view the nature of the offence, evidence, complicity of the accused; submissions of the learned counsel for the parties noted above; finding force in the submissions made by the learned counsel for the applicant; keeping view the uncertainty regarding conclusion of trial; one sided investigation by police, ignoring the case of accused side; applicant being under trial having fundamental right to speedy trial; larger mandate of the Article 21 of the Constitution of India and recent judgment dated 11.07.2022 of the Apex Court in the case of Satendra Kumar Antil vs. C.B.I., passed in S.L.P (Crl.) No. 5191 of 2021 and considering 5-6 times overcrowding in jails over and above their capacity by the under trials and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

Let the applicant, Vidhya Devi**,** involved in Case Crime No.104 of 2023, under Sections 498A, 304B I.P.C and under Section 3/4 of Dowry Prohibition Act, Police Station Katghar, District- Moradabad be released on bail on her furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with the evidence or threaten the witnesses.
(ii) The applicant shall file an undertaking to the effect that she shall not seek any adjournment on the dates 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.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against her under Section 229-A of the Indian Penal Code.

(iv) In case the applicant misuse the liberty of bail during trial and in order to secure her presence, proclamation under Section 82 Cr.P.C. is issued and the applicants fail to appear before the Court on the date fixed in such proclamation then the Trial Court shall initiate proceedings against him in accordance with law under Section 174-A of the Indian Penal Code.

(v) The applicant shall remain present in person before the Trial Court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) 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.

In case of breach of any of the above conditions, the complainant is free to move an application for cancellation of bail before this court.

Identity and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted

Order Date :- 21.11.2023
SS

Digitally signed by :-
SURENDAR SINGH NARANG
High Court of Judicature at Allahabad