

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48809 of 2023

Applicant :- Suneeta

Opposite Party :- State of U.P.

Counsel for Applicant :- Angad Yadav, Amaresh Yadava

Counsel for Opposite Party :- G.A., Chandra Kumar Rai

Hon'ble Sameer Jain, J.

1. Heard Shri Deepak Singh Yadav, Advocate holding brief of Shri Amaresh Yadava, learned counsel for the applicant, Shri Pradeep Kumar, learned AGA for the State-respondent and Chandra Kumar Rai, learned counsel for the informant.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.0177 of 2023, under Section 304 I.P.C., Police Station Tahbarpur, District Azamgarh, during pendency of the trial in the court below.
3. FIR of the present case was lodged on 08.09.2023 against applicant, her husband and son and according to the FIR, on 07.09.2023 at about 6:00 in the evening applicant alongwith her husband and son made assault upon the elder brother of the informant through wooden sticks and due to the assault made by them, he sustained injuries and subsequently succumbed to his injuries.
4. Learned counsel for the applicant submits that on the basis of false allegation applicant has been made accused in the present matter.

5. He further submits that actually dispute with regard to the property is pending between both the sides and deceased was the *Jeth* of the applicant and only due to this reason, she also made accused alongwith her husband and son in the present matter.

6. He further submits that there is no specific role has been assigned to the applicant and however from the post-mortem report of the deceased, it appears that deceased sustained as many as eight injuries but injury no.8 appears to be on his occipital region and as per autopsy surgeon, he died due to head injury and there is no evidence on record, which can show that applicant is the author of this injury.

7. He further submits that the applicant is not having any criminal history and she is in jail in the present matter since 14.09.2023, therefore, she may be released on bail.

8. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submits that due to assault made by applicant and her husband and son, deceased died, who was her *Jeth* but they could not dispute the fact that only general allegation has been levelled against her.

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

10. However, from the record, it reflects that deceased sustained as many as eight injuries but injury no.8 appears to be on his occipital region and as per autopsy surgeon, he died due to head injury and it is nowhere on record, which can show that applicant is the author of this injury.

11. Further, only general allegation has been made against all the accused persons including applicant and applicant is a lady.

12. Further, applicant is not having any criminal history and she is in jail in the present matter since 14.09.2023

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

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

15. Let the applicant-**Suneeta**, 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.

16. 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.

17. 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 :- 23.11.2023

Zafar