

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51882 of 2023

Applicant :- Smt. Sanju

Opposite Party :- State of U.P.

Counsel for Applicant :- Prashant Yadav, Rajeev Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Rajeev Kumar, learned counsel for the applicant and Sri R.N. Srivastava, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 572 of 2023, under Sections 304, 323 IPC, Police Station- Tajganj, District- Agra, during pendency of the trial in the court below.
3. FIR of the present case was lodged against applicant and four others on 06.07.2023 at about 13:53 hours under Sections 323, 304 IPC and according to the FIR, on 05.07.2023 at about 6:00 a.m. in the morning due to illicit relationship, applicant alongwith other accused persons made assault upon her husband through wooden sticks and iron rod and due to assault made by them, her husband sustained injuries and during treatment on 06.07.2023 he died.
4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and as informant and her family members were having suspicion that applicant was having illicit relationship with co-accused Manohar and, therefore, she caused the death of the deceased i.e. her husband, therefore, she has been made accused in the present matter alongwith other accused persons including her son Prashant.
5. He further submitted that if applicant was having illicit relationship with co-accused Manohar then her son would not have definitely supported her and this fact clearly suggests that false allegation of illicit relationship has been levelled against the applicant. He further submitted that however, during investigation, IO recorded the statements of four eye-witnesses including Bobby and they repeated the same version and statement of eye-witness

Boby has been annexed alongwith the instant bail application and he stated that on the date of incident, some scuffling was going on between applicant and other accused persons with the deceased as deceased was heavy drinker and during scuffling, applicant made assault through wooden stick upon the deceased and thereafter her son Prashant and other accused persons also assaulted him but from the statements of the alleged eye-witnesses, it reflect that applicant, who is wife of the deceased, was not having any intention to cause his death and during snuffling, deceased sustained injuries.

6. He further submitted that applicant has been detained for offence under Section 304 IPC and she is a lady and she is not having any criminal history and is in jail since 07.07.2023.

7. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the fact that applicant is a lady and deceased was her husband.

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

9. However, from the statements of the eye-witnesses, which were four in number, it reflects that applicant alongwith two other accused persons made assault upon her husband but from their statements, it also reflects that some dispute was going on between all accused persons including applicant and her son as deceased was heavy drinker and suddenly applicant gave a *lathi blow* upon the deceased and thereafter her son and one another accused also caused injury upon him, therefore, I find force in the argument advanced by learned counsel for the applicant that applicant was not having any intention to cause the death of the deceased. Further, applicant is a lady and she is not having any criminal history and is in jail since 07.07.2023.

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

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

12. Let the applicant- **Smt. Sanju** 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.

13. 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.

14. 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 :- 4.12.2023

KK Patel