

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49198 of 2023

Applicant :- Sapna

Opposite Party :- State of U.P.

Counsel for Applicant :- Sajiya Parveen

Counsel for Opposite Party :- G.A.,Shiv Shankar Kaithal

Hon'ble Dr. Gautam Chowdhary,J.

1. Heard Ms. Sajiya Parveen, the learned counsel for the applicant, learned A.G.A for the State and perused the record.

2. Learned counsel for the applicant submits that applicant is the wife of the deceased and she is innocent and has falsely been implicated in the present case. Learned counsel further submits that as per the F.I.R., after reaching of the deceased, who is son of the complainant to the parental house of his wife for taking her to her matrimonial house, he received an information that his son is seriously ill and is under treatment in a hospital at Firozabad and till he reached there his son has died and after cremation when he went to the matrimonial house of his son then it was informed to him that his son reached at his matrimonial house before 2-3 days from her death to take his wife, where some hot talk took place between him and the family members of the applicant and he was also abused by them by saying that his wife will not go with him, on account of which he consumed some poisonous substance and died. Learned counsel for the applicant further submits that since cause of death of the deceased could not be ascertained hence viscera was preserved. Learned counsel for the applicant further submits that F.I.R. was lodged after five days of the incident without any plausible explanation of delay and after due consultation and deliberations. Learned counsel for the applicant further submits that the Investigating Officer recorded statement of driver of ambulance, who in his statement recorded before the police has stated that on 01.06.2023 he received a phone call made from the applicant who told that he is feeling stomach pain and when he reached there the deceased came into ambulance alone and thereafter he admitted him to the hospital. Learned counsel for the applicant further submits that on 01.06.2023 when the deceased was admitted in the hospital he was suffering from abdominal pain and when his condition became deteriorated the deceased was referred to the District Hospital. Learned counsel for the applicant further submits that

as per the version of the F.I.R. some hot talk took place between the deceased and family members of his matrimonial house regarding taking of his wife by the deceased in his parental house, on account of which he felt insult and consumed some poisonous substance in a fit of rage, thus, there is no cogent evidence of abetment against the applicant and false and baseless allegations have been made in the F.I.R. Learned counsel for the applicant further submitted that similarly circumstanced co-accused, Mubina Begum, who is mother of the applicant, has already been granted bail by a coordinate Bench of this Court vide order dated 17.11.2023 passed in Criminal Misc. Bail Application No. 48997 of 2023 and the case of applicant is not on the worse footing than that of the aforesaid co-accused as general allegation of abetment has been made in the F.I.R. against all the accused persons named in the F.I.R., thus, the applicant is also entitled to be enlarged on bail. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that she is ready to cooperate with the process of law and shall faithfully make herself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon her. He next submits that applicant is languishing in jail since 04.09.2023, having no criminal history.

3. Per contra, learned A.G.A. has opposed the prayer for bail of the applicant by contending that applicant is involved in a heinous crime, but he has not disputed that similarly circumstanced co-accused has already been granted bail.

4. After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, without expressing any opinion on merits of the case, this Court is of the view, that the applicant may be enlarged on bail.

5. Let applicant-**Sapna**, involved in Case No. 52902 of 2023, arising out of Case Crime No. 91 of 2023, under Section 306 I.P.C., Police Station Nasirpur, District Ferozabad, be enlarged on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

(i) The applicant will not tamper with prosecution evidence and

will not harm or harass the victim/complainant in any manner whatsoever.

(ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that she shall not seek any adjournment on the date 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.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure her presence proclamation under section 82 Cr.P.C., may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against her, in accordance with law, under section 174-A I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) 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 and the trial court may proceed against her under Section 229-A IPC.

6. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail in accordance with law.

7. The bail application is **allowed**.

Order Date :- 4.12.2023

Mustaqeem.