

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50555 of 2023

Applicant :- Gudia Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Dr. Rajesh Kumar Srivastav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Dr. Rajesh Kumar Srivastav, learned counsel for the applicant and Dr. S. B. Maurya, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.314 of 2023, under Section 302 I.P.C., Police Station Koda, District Ghaziabad, during pendency of the trial in the court below.
3. FIR of the present case was lodged against unknown persons and according to the FIR, the brother-in-law (*bahnoi*) of the informant was murdered in the night of 15/16.05.2023 by unknown persons.
4. Learned counsel for the applicant submits that nobody was named in the F.I.R. but during investigation, applicant, who was wife of the deceased was made accused in the present matter alongwith the brother of her jija namely Rajesh.
5. He further submits that as per the prosecution, applicant was having illicit relationship with co-accused Rajesh and therefore, she committed murder of her husband alongwith

co-accused Rajesh but except motive, there is no other cogent evidence against the applicant on record.

6. He further submits that however during investigation, Investigating Officer recorded the statements of Rakesh and Santosh but both of these witnesses were not eye-witnesses and they only stated that they witnessed the co-accused Rajesh in and around the house of applicant.

7. He further submits that except the statements of Rakesh and Santosh, there is no other evidence against the applicant on record.

8. He further submits that the applicant is a lady and she is not having any criminal history and she is in jail in the present matter since 27.05.2023.

9. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that only evidence against applicant is that on the date of incident co-accused Rajesh was seen by two witnesses in and around the house of the applicant.

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

11. It is a case of circumstantial evidence and during investigation, applicant, who was wife of the deceased has been made accused in the present matter alongwith co-accused Rajesh and as per prosecution, applicant was having illicit relationship with co-accused Rajesh and two witnesses Rakesh and Santosh stated that in the night of the alleged incident, they witnessed that co-accused Rajesh in and around

the house of the applicant and except the statements of these two witnesses, there is no other evidence against the applicant on record.

12. Further, applicant is a lady and she is not having any criminal history and she is in jail in the present matter since 27.05.2023.

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

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

15. Let the applicant-**Gudia 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.

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 :- 28.11.2023

Zafar