**Court No. - 68**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 51081 of 2023

**Applicant :-** Smt. Munni Devi
**Opposite Party :-** State of U.P.
**Counsel for Applicant :-** Yadvendra Singh
**Counsel for Opposite Party :-** G.A.

**Hon'ble Dr. Gautam Chowdhary,J.**

1. Heard 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 mother-in-law of the deceased and she has falsely been implicated in the present case. Learned counsel further submits that the F.I.R. was lodged against the applicant and nine other persons who are her family members. Learned counsel for the applicant further submits that though in the F.I.R. the complainant who is father of the deceased has made allegation against the applicant and her family members including the husband of the deceased for demand of additional dowry in the form of motorcycle and one lakh rupees in cash, and on account of non fulfillment thereof cruelty meted to his daughter and thereafter for killing his daughter by all the accused persons named in the F.I.R., but the complainant in his statement recorded under Section 161 Cr.P.C. has stated that he had lodged the F.I.R. against all the accused persons on hearsay of some persons and now he knew correct facts therefore, he does not want to proceed further against them, thus, learned counsel for the applicant submits that complainant has not supported the prosecution case. Learned counsel for the applicant further submits that as per the postmortem report of the deceased cause of death is asphyxia due to ante mortem hanging. It has also been submitted that except one ligature mark of size 22.0 c.m. x 2.0 c.m. all around the neck no other injury was found on the person of the deceased, which shows that deceased had committed suicide by hanging herself. Thus, it is alleged that no offence as alleged has been committed by the applicant. 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 08.09.2023, having no criminal history.

3. Per contra, learned A.G.A. has opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, she does not deserve any indulgence, but he has not disputed that complainant in his statement recorded under Section 161 Cr.P.C. has not supported the prosecution case.

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-**Smt. Munni Devi**, involved in Case Crime No. 227 of 2022, under Sections 498-A, 304-B I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station Malavan, District Etah, 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 :-** 30.11.2023
Mustaqeem.

Digitally signed by :-
MOHD MUSTAQEEM KHAN
High Court of Judicature at Allahabad