

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51828 of 2023

Applicant :- Smt. Kusuma Devi

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Suresh Singh, Ritesh 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 the applicant is the mother-in-law of the deceased and she is innocent and has been falsely implicated in the present case. Learned counsel further submits that F.I.R. was lodged by the complainant against the applicant and her other family members with the allegation that he had solemnize marriage of his sister with the son of the applicant about five years ago, at the time of marriage sufficient dowry was given but in-laws of his daughter were not satisfied with the same and they used to make demand of additional dowry, and ultimately on 25.05.2023, his daughter has been murdered by hanging by her in-laws. Learned counsel for the applicant further submits that in the F.I.R. as well as in the statements of complainant and other witnesses recorded under Section 161 Cr.P.C. general and omnibus allegations have been made against all the accused persons and no specific allegation has been made against them. Learned counsel for the applicant further submits that on the person of the deceased apart from ligature mark all around the neck, no other injury was found on her person and cause of death is asphyxia as a result of ante mortem hanging. Learned counsel for the applicant further submits that father-in-law of the deceased, namely, Rakesh Yadav, has already been granted bail by this Court vide order dated 22.11.2023 passed in Criminal Misc. Bail Application No. 49668 of 2023 and the case of applicant is not on the worse footing than that of the co-accused, Rakesh Yadav. 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 01..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, he does not deserve any indulgence.

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. Kusuma Devi**, involved in Case Crime No. 223 of 2023, under Sections 304-B, 498-A, 323 I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station Mirzapur, District Shahjahanpur, 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 :- 11.12.2023

Mustaqeem.