

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51680 of 2023

Applicant :- Muniya Devi And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Vijay Prakash Chaturvedi, Suvash Ram

Counsel for Opposite Party :- G.A., Ram Bali Ram

Hon'ble Samit Gopal,J.

1. Heard Sri Vijay Prakash Chaturvedi, learned counsel for the applicants, Sri Ram Bali Ram, learned counsel for the first informant and Sri Birendra Pratap Singh, learned counsel for the State and perused the material on record.
2. Counter affidavit filed on behalf of the first informant today in Court is taken on record.
3. Learned counsel for the applicants submits that he does not intend to file any rejoinder affidavit to the said counter affidavit.
4. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicants- **Muniya Devi** and **Munna Ram**, seeking enlargement on bail during trial in connection with Case Crime No. 220 of 2023, under Sections 498-A, 304-B I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station Jamaniya, District Ghazipur.
5. Learned counsel for the applicants argued that the applicants are mother-in-law and father-in-law of Smt. Arti. They have been falsely implicated in the present case. It is argued that the marriage of Arti was solemnized with Sonu Kumar the son of the applicants on 23.05.2017. It is further argued that general and omnibus allegations have been levelled against the applicants and all the accused persons. The dead body of the deceased was found on a railway track. An information about the same was given to the police by chowkidar subsequent to which the inquest on her body was conducted in which Sunil Ram the brother of the deceased was one of the witnesses whose name finds place at serial no.8 in the list of witnesses. No complaint whatsoever was made by him at that point of time to the police. The inquest was conducted on 28.03.2023. Subsequently an application under Section 156 (3) Cr.P.C. was moved on 01.05.2023 on the basis of which the present first information report has been lodged. It is argued while placing paragraph 14 of the affidavit that the applicants are suffering from old diseases, they are living separately and have no concern with the deceased and her husband. It is argued that Sonu Kumar husband of the deceased is in jail. The applicants have no criminal history as stated in para 31 of the affidavit and are in jail since 06.10.2023.

6. *Per contra*, learned counsel for the State has opposed the prayer for bail and argued that the applicants are named in the first information report along with other accused persons and there are allegations against them.

7. After having heard the learned counsel for the parties and perusing the record, it is evident that the applicants are mother-in-law and father-in-law of the deceased. General and omnibus allegations have been levelled against the applicants and other accused persons in the first information report. The husband of the deceased is in jail.

8. Looking to 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, this Court is of the view that the applicants may be enlarged on bail.

9. Let the applicants- **Muniya Devi** and **Munna Ram**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The applicants will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicants 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 applicants shall file an undertaking to the effect that they 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 applicants will not misuse the liberty of bail in any manner whatsoever. In case, the applicants misuse the liberty of bail during trial and in order to secure their presence proclamation under section 82 Cr.P.C., may be issued and if applicants fail to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against them, in accordance with law, under section 174-A I.P.C.

(v) The applicants 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 applicants are 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 them in accordance with law and the trial court may proceed against them under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicants.

10. 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 and send the applicants to prison.

11. The bail application is **allowed**.

Order Date :- 8.12.2023

AS Rathore

(Samit Gopal,J.)