

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1971 of 2023

Applicant :- Saroja Devi

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko.

Counsel for Applicant :- Sushant Singh, Prashansa Singh, Ramendra Kumar, Vijay Bahadur Singh

Counsel for Opposite Party :- G.A., Vijay Kumar

Hon'ble Brij Raj Singh, J.

1. Supplementary counter affidavit filed by learned counsel for complainant and supplementary affidavit filed by learned counsel for applicant are taken on record.

2. Heard Shri Ramendra Kumar, learned counsel for the accused-applicant, Shri Vijay Kumar, learned counsel for complainant as well as Shri G.D. Bhatt, learned A.G.A. for the State and perused the record.

3. This bail application has been filed seeking release of the accused/applicant **Saroja Devi** on bail, who is involved in Case Crime No. 253 of 2022 under Sections 323, 504, 506, 452, 308, 302, 34 I.P.C, Police Station Jaisinghpur, District Sultanpur.

4. Learned counsel for the applicant submitted that four accused persons including the applicant have been named in the F.I.R and the allegation is levelled to the extent that the applicant assaulted the deceased (mother of complainant), the complainant as well as her father. It is further alleged in the F.I.R that the both parties belong to the same family and there was enmity between the parties due to a land dispute. In the statement under Section 161 Cr.P.C, the complainant has stated that the applicant along with three accused, armed with *lathi*, assaulted the deceased due to which she sustained four injuries and died after two days.

5. Learned counsel for applicant further submitted that general allegation of assault had been levelled against the four co-accused, but after the matter was investigated, the final report was filed in favour of co-accused Vibha Singh and Savita Singh and charge-sheet has been filed against the applicant and co-accused Bhuleshwar Singh (husband of applicant). He further submitted that a cross-case has been lodged in pursuance of the direction issued under Section 156(3) Cr.P.C, and on the application given by the daughter of the applicant, namely Sarita Singh, the F.I.R was lodged under Section 147, 323, 504, 506, 308 I.P.C, mentioning therein that the applicant had also received

injury and the injury report pertaining to CHC, Jaisinghpur has been filed along with the supplementary affidavit dated 13.10.2023 and has also annexed the photographs as Annexure No. 3 showing that the injuries sustained by the applicant, on her head. Learned counsel for applicant further submitted that the applicant is a lady and she may be extended the benefit of Section 437 Cr.P.C and he further submitted that the case of the applicant is distinguishable to that of co-accused Bhuleshwar Singh.

6. Learned counsel for the applicant further stated that the applicant has no previous criminal history and she is languishing in jail since 22.11.2022.

7. On the other hand, Shri Vijay Kumar, learned counsel for complainant submitted that cross F.I.R has been lodged in pursuance of the direction issued by this court under Section 156(3) Cr.P.C and cross-case was lodged under Section 308 I.P.C, and after investigation, it was found by the Investigating Officer that the case is not travelling beyond Section 323 I.P.C and the charge-sheet was filed under Section 323 I.P.C and Section 308 has not been dropped.

8. Learned A.G.A has opposed the prayer of bail of the applicant and has stated that the applicant and her husband (co-accused) had caused injury to the deceased, the complainant and her father, therefore, bail is liable to be rejected.

9. Considering the facts and circumstances of the case, perusing the record, also considering the nature of allegations, arguments advanced by the learned counsel for the parties, the argument that the applicant is a lady and as per the cross case the applicant also received head injury, the argument that the case of applicant is distinguishable to that of co-accused Bhuleshwar Singh, the argument that the applicant is in jail for more than one year, I find it to be a fit case for grant of bail.

10. Accordingly, the bail application is **allowed**.

11. Let the applicant **Saroja Devi** be released on bail in the above case crime number on her furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

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

(ii) The applicant shall remain present before the trial court

on each date fixed, either personally or through her counsel. In case of her absence, without sufficient cause, the trial court may proceed against her under Section 229-A of the Indian Penal Code.

(iii) 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. is issued and if the 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 of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) 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.

12. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The Trial Court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 28.11.2023
DiVYa/Rajneesh