

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2553 of 2023

Applicant :- Rooprani

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

Counsel for Applicant :- Dharm Trivedi,Rajiva Dubey,Suchendra Kumar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Heard learned counsel for the accused/applicant as well as learned A.G.A. for the State and perused the record.
2. This bail application has been moved by the accused/applicant- **Rooprani** for grant of bail, in Case Crime No. 369 of 2022, under Sections 302, 201 IPC, Police Station Maigalganj, District Kheri, during trial.
3. Learned counsel for the accused-applicant while pressing the bail application submits that the accused-applicant has falsely been implicated in the instant case and she has not committed any offence as claimed by the prosecution.
4. It is further submitted that the applicant was not named in the FIR. However, after many days of the incident, a theory has been developed by the investigating officer on the basis of alleged confessional statement given by the co-accused Bulaki that the deceased was a hurdle in selling of a land. The consideration of which may be utilized for the treatment of the husband of the applicant and his brother and also that an exorcist had advised that if any person of the house is sacrificed, the salvation may return to the house.
5. It is vehemently submitted that the motive which has been assigned for the commission of the crime, is misconceived and weak and could not be believed, as the death of the deceased may not result in any benefit to the applicant as the land which was owned by the deceased, may not be inherited by the applicant.
6. It is further submitted that at a later stage of the investigation, two witness of last seen have been procured by the investigating officer. However, these two witnesses namely, Rambraj and Sonu are pertaining to witnessing the co-

accused Bulaki with the deceased and there is no whisper about the applicant. However, an apprehension has been shown by these two witnesses with regard to the suspicious conduct of the applicant. However, the suspicion of any magnitude may not take the place of the evidence or proff.

7. It is also submitted that so far as the applicant is concerned, apart from apprehension and suspension, there is nothing which may connect the applicant with the crime. She is in jail in this case since 19.12.2022 and is not having any criminal antecedents. Charge sheet in the matter has already been filed and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty.

8. Learned A.G.A., on the other hand submits that having regard to the manner in which the offence has been committed the applicant is not entitled for any relief.

9. Having heard learned counsel for the parties and having perused the record, it is transpired that the case of the prosecution is based on circumstantial evidence. Though the motive has been assigned to the applicant, however, apart from the motive, there are only confessional statements of the applicant and the co-accused Bulaki and the defence of the applicant is that the confessional statement may not be proved against applicant by virtue of the bar contained in Section 26 of the Indian Evidence Act. The last seen evidence is also with regard to the co-accused Bulaki. Nothing incriminating has been recovered from the possession or on the pointing of the applicant. The applicant is in jail in this case since 16.11.2022 without any criminal history. Charge sheet in the matter has already been filed. His presence could be secured before the trial court by placing any adequate conditions.

10. Keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits and demerits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is **allowed**.

11. Let the applicant- **Rooprani** involved in the aforesaid case be released on bail on furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the

investigation or trial.

(ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

12. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

13. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

14. Observations made herein-above are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

Order Date :- 28.11.2023

Shravan