

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12580 of 2022

Applicant :- Smt. Reeta Singh

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

Counsel for Applicant :- Ashish Raman Mishra, Ashutosh Kumar, Vijay Vikram Singh

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- **Smt. Reeta Singh** for grant of bail, in Case Crime No.174 of 2022, under Sections 302, 201, 34 I.P.C., Police Station Kaiserganj, District Bahraich, during trial.
3. Learned counsel for the accused-applicant while pressing the bail application submits that the applicant has been falsely implicated in this case and she has not committed any offence as claimed by the prosecution.
4. It is further submitted that the F.I.R. of this case has been lodged by the applicant Reeta Singh, herself against certain accused persons named therein, however, during the course of investigation, the police is shown to have arrested the applicant and co-accused Ajay Kumar Singh and obtained their confessional statements pertaining to the fact that the deceased (husband of the applicant) was having illicit relationship with some other women and was also intending to transfer his property to his nephew and therefore, they (applicant and co-accused Ajay Kumar Singh @ Guddu Singh) by hatching a conspiracy caused his death by strangulation.
5. It is also submitted that the motive, which has been assigned to the applicant, is very weak and apart from the confessional statement and extra judicial confession of the applicant obtained while she was in the custody of police and which could not be proved against her having regard to the bar contained under Section 26 of the Indian Evidence Act, there is no iota of evidence against the applicant and there was no reason for the applicant to have made extra judicial confession before Rajender Singh.

6. It is further submitted that recovery if any has been shown from the co-accused Paras Nath Singh and so far as the applicant is concerned recovery of mobile phone is of no consequence and charge sheet has been filed only on account of suspicion as even if the theory of the prosecution as investigated by the investigating officer is believed, the beneficiary of the crime at any cost may not be the applicant and the motive assigned to the applicant is of not such a magnitude, which may warrant commission of murder of anyone.

7. It is next submitted that applicant is in jail in this case since 13.06.2022 and she is not having any criminal history, charge-sheet in this case has already been submitted and there is no apprehension that after being released on bail the applicant may flee from the course of law or may otherwise misuse the liberty. Identically placed co-accused Ajay Kumar Singh @ Guddu Singh has been granted bail by this Court, vide order dated 18.10.2023 passed in Criminal Misc. Bail Application No. 11486 of 2023.

8. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and having regard to the material/evidence available against the applicant, she is not entitled to be released on bail, but could not controvert the other factual submissions made by learned counsel for the applicant.

9. Having heard learned counsel for the parties and having perused the record, it is evident that in the postmortem report of the deceased, contusion has been found on front of the neck of the deceased and cause of death has been ascertained as asphyxia as a result of ante mortem strangulation. Applicant Reeta Singh is shown to have lodged the F.I.R. of this case against some persons, who have not been charge sheeted and the investigating officer appears to have investigated the theory to the tune that the deceased was having illicit relationship with many women and was intending to transfer his property to his nephew and it is on this score, the deceased has been eliminated by the applicant and co-accused persons by strangulating him. Call details record has also been collected by the investigating officer in order to corroborate the confession made by the applicant and co-accused persons. The defence of the applicant appears to be that confession made while in the custody of the police may not be proved against her and recovery of mobile phone of deceased from her possession is natural, moreover the statement of Rajender Singh could not be believed as there was no occasion for the co-accused or applicant to have confessed their guilt before him. The call details record alone, according

to learned counsel for the applicant, may not be sufficient for conviction of the applicant. The case of the prosecution is based on circumstantial evidence as there is nobody, who claimed to have seen the applicant and co-accused Ajay Kumar Singh @ Guddu committing the offence. Charge-sheet in this case has already been filed. Identically placed co-accused Ajay Kumar Singh @ Guddu Singh has been granted bail by this Court. Applicant is in jail in this case since 13.06.2022 without any previous criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions.

10. Having regard to the overall facts and circumstances of the case and 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 of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus, **allowed**.

11. Let the accused/applicant- **Smt. Reeta Singh** involved in above-mentioned case, be released on bail on her 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 by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression of this Court on the merits of the case.

Order Date :- 28.11.2023/Muk