

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12708 of 2023

Applicant :- Sumitra Kori

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

Counsel for Applicant :- Sushil Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicant, Ms. Priyanka Pandey, learned A.G.A. for the State and perused record.
2. The present bail application has been filed by the applicant with a prayer for bail in FIR No.295 of 2022 under Section 304, 506 IPC, PS Kotwali Dehat district Sultanpur.
3. It has been submitted by learned counsel for the applicant that FIR has been lodged by the brother of deceased under Section 304, 406 and 394 IPC on 24.6.2022 whereas, incident took place on 26.5.2022 and as per allegation of FIR, deceased was beaten by the applicant and her family members and later on, deceased was hospitalized and died on 28.5.2022. It has been submitted by the learned counsel for the applicant that deceased died on 28.5.2022 whereas, the FIR has been lodged on 24.6.2022 by the brother. It has been submitted that deceased was son-in-law of applicant and he always used to come to the house in drunken state and always used to beat the daughter of the applicant.
4. Learned counsel for the applicant has invited attention of this Court towards the statement of the Village Pradhan Rijwan Ahmad recorded under Section 161 CrPC in which he has stated that deceased was married with the daughter of the applicant prior to 7 months and deceased was alcoholic and always used to come to the house in intoxicated position and he used to always quarrel with the applicant and her family members and he also used to harass his wife Vandana. He has further stated that on 27.5.2022 in the night there was altercation between the deceased and his wife and her family members. He has mentioned in his statement that on the date of incident, the deceased was beaten by his wife Vandana, Arun Kumar and the present applicant who is mother-in-law of deceased. He has further mentioned that when he came to the place of occurrence, he saw stick in the hand of applicant and

Arun.

5. Learned counsel for the applicant has submitted that the statement of Vandana and Safidaman alias Ladley was also recorded under Section 161 CrPC and all of them have stated before the police that deceased was having bad reputation and he was alcoholic. There was always quarrel with the family members and deceased.

6. Learned counsel for the applicant has submitted that even if the prosecution case is taken on its face value, it cannot be attributed that the applicant who is mother-in-law, will kill her own son-in-law. It has been submitted that there is no intention to kill the deceased rather, there was always altercation between the daughter of the applicant with the deceased and whatever happened, it was beyond the control and he has submitted that the case is falling within the purview of Section 304 Part-2 IPC. There is no motive assigned to the applicant as to why she would kill her own son-in-law except the fact that deceased had come to her house in drunken state and there was quarrel between the deceased and her daughter Vandana. He has further submitted that co-accused Vandana the wife of deceased against whom allegation of assault has been levelled has been granted bail by this Court in Crl. Misc. Bail Application No.746 of 2023 on 5.7.2023, a copy of bail order is annexed as Annexure No.9 to the bail application. He has further submitted that the applicant is lady and she may be extended the benefit of Section 437 CrPC. He has further submitted that the applicant has no criminal history and she is in Jail for the last more than one and half year i.e., since 25.6.2022.

7. On the other hand, learned A.G.A. has opposed the prayer for bail but could not dispute the aforesaid facts.

8. Considering the over all facts and circumstances of the case, the argument that there is no intention to kill and case is coming within the purview of Section 304 Part-2 IPC, the argument that there is no motive assigned to the applicant to kill the deceased, her own son-in-law, the argument that co-accused Vandana wife of deceased has been granted bail, the argument that the applicant is lady and it has been requested that benefit of Section 437 CrPC may be extended to her, it is a fit case for bail.

9. Let the applicant, namely, Sumitra Kori 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 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.

10. 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 :- 5.12.2023

Rajneesh JR-PS)