

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12740 of 2023

Applicant :- Smt. Sanno

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

Counsel for Applicant :- Shailendra Kumar, Dinesh Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Rejoinder affidavit filed by the applicant is taken on record.
2. Heard Shri Shailendra Kumar, learned counsel for the applicant, Shri Awshesh Kumar Singh, learned AGA for the State and perused the record.
3. The present bail application has been filed by the applicant with a prayer to enlarge her on bail in Case Crime No.287 of 2023, under Section 306 I.P.C. Police Station Hujoorpur, District Bahraich.
4. It is contended by learned counsel for the applicant that the FIR has been lodged by the father of the deceased in which he has mentioned that mobile of the accused was stolen and he had levelled allegation that theft was done by the deceased. He further mentioned that there was quarrel between the family. The applicant and her husband had pressurised her to swear in front of Meermah (Mazar) to show her innocence and due to the aforesaid pressure, she committed suicide.
5. Learned counsel submitted that there is ligature mark on the neck and cause of death is hanging as per post mortem report. It is not a case of abetment to suicide. The mobile of the applicant was stolen and she had expressed her doubt and naturally she had asked the deceased to swear before Mazar and it appears that she committed suicide. She might have committed offence of theft but the applicant had not abetted her in any manner to commit suicide. Even if the prosecution case is taken on the face value it does not indicate that abetment was done by the applicant and there is no active act or instigation on the part of the applicant which could force the deceased to commit suicide.
6. Learned counsel submitted that the ingredients of Section 107 IPC is not seen in the present case and there is no direct or clinching evidence found against the applicant. Learned counsel submits that the applicant is a lady and further requested for the benefit of Section 437 Cr.P.C. The applicant has no criminal history. The applicant is in jail since 25.07.2023.

7. Learned AGA opposed the prayer for bail and contended that applicant was involved in committing the offence as such the applicant is not entitled to be released on bail.

8. Without expressing any opinion on the merits, after hearing learned counsel for the parties and considering the argument that the deceased committed suicide by hanging, argument that ingredients of section 107 IPC is not found, argument that there is no direct evidence of abetment against the applicant and further argument that applicant is lady, I find it to be a fit case for bail.

9. Let the applicant, **Smt. Sanno** 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 his 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 :- 7.12.2023

Pks