

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13282 of 2023

Applicant :- Smt. Pappi

Opposite Party :- State Of U.P. Thru. Its Addl. Chief Secy. Deptt. Of Home, Lko.

Counsel for Applicant :- Dinesh Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicant, of Sri Vishvas Sarasvat, learned A.G.A. for the State and perused record.

Rejoinder affidavit filed today is taken on record.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.0191 of 2023 under Section 306 IPC, PS, Baghauli, district Hardoi.

3. Learned counsel for the applicant has submitted that co-accused Vijay Kumar alias Vijaypal has been granted bail by this Court on 13.10.2023 in Crl. Misc. Bail Application No.12225 of 2023 by a detailed order, a copy of bail order is annexed as Annexure No.8 to the bail application. He has submitted that the case of the applicant is at par with the co-accused as there is no specific role assigned to the applicant and the co-accused Vijay Kumar @ Vijaypal, the father of the applicant who has been granted bail. He has submitted that he is pressing the same grounds as advanced in the case of co-accused Vijay Kumar @ Vijaypal. He has submitted that there is no ingredient of Section 107 IPC which may indicate that the applicant instigated the deceased to commit suicide. He has further submitted that the applicant is lady and, therefore, the benefit of Section 437 CrPC may be extended to her. He has submitted that the applicant has no criminal history and she is in Jail since 17.6.2023.

4. On the other hand, learned A.G.A. has opposed the bail but could not dispute the fact that the case of the applicant is at par with the co-accused who has been granted bail.

5. Considering the over all facts and circumstances of the case, the argument that the case of the applicant is at par with the co-accused who has been granted bail, the argument that there is no ingredient of Section 107 IPC which may indicate that the applicant instigated the deceased to commit suicide, the argument that applicant being lady, the benefit of Section 437 CrPC may be extended to her, it is a fit case for bail.

6. Let the applicant, namely, Smt. Pappi 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.

7. 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 :- 18.12.2023
Rajneesh JR-PS)