

**Court No. - 14**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 13761 of 2023

**Applicant :-** Priyanka Yadav

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

**Counsel for Applicant :-** Bhanu Pratap Singh, Akshaya Pratap Singh, Pradeep Kumar Tripathi

**Counsel for Opposite Party :-** G.A.

**Hon'ble Mohd. Faiz Alam Khan, J.**

1. Learned A.G.A. informs that he has procured complete instructions in the matter including complete/up-to-date case diary.
2. Heard learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.
3. This bail application has been moved by the accused/applicant- **Priyanka Yadav** for grant of bail, in Case Crime No. 328 of 2023, under Section 304 I.P.C., Police Station Pachpedawa, District Balrampur, during trial.
4. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication and the story, as narrated in the first information report has not canvassed the correct facts. Elaborating further, it is submitted that on the fateful day a quarrel had taken place between the applicant and her husband (informant) and the informant had left the home with her two daughters, however, one of the daughter was taken to the home by the informant while the other was with the applicant and while the applicant was sitting under a tree, the other daughter of the applicant (deceased) appears to have slipped into a '*nala*' and despite efforts made by the applicant she could not be rescued and her dead body has been recovered therein.
5. It is vehemently submitted that since there had been a fight between the applicant and informant (wife and husband), the husband in the state of anger has lodged an F.I.R., however, as there was no other person available to file bail application on behalf of the applicant, the husband (informant) has filed his affidavit in support of the instant bail application, wherein correct facts have been stated.

6. It is also submitted that there is no witness in support of the allegations levelled in the first information report and the acts of the first information report appears to have been stated on the basis of hypothesis.

7. It is further submitted that no knowledge or intention, as contemplated under Section 304 I.P.C. can be attributed to the applicant and she being the mother of the deceased is not expected to behave in the manner alleged by the informant. Applicant is in jail in this case since 15.09.2023 and she is not having any criminal history. Charge sheet in this case has already been filed and since the informant himself has come in support of the applicant, the chance of conviction of the applicant before the trial Court is remote. There is no apprehension that after being released on bail she may flee from the course of law or may otherwise misuse the liberty.

8. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed heinous offence and, therefore, she is not entitled to be released on bail.

9. Having heard learned counsel for the parties and having perused the record, it is transpired that on the fateful day a quarrel had taken place between the husband and wife and the wife (applicant) had left her matrimonial home with her two daughters. However, one of the daughter was taken back by the informant and the other aged about 08 months was with the applicant. Allegations and counter allegations have been levelled with regard to what had happened at that particular time. The defence of the applicant is that the deceased had slipped into the '*nala*' and there was no intention or knowledge on her part to commit the offence and the incident may only be termed as an 'accident', while the informant was in the first information report had alleged sufficient knowledge and intention by which the offence is alleged to have been committed. Significantly, the husband is also filed affidavit before this Court in support of the bail application, wherein the defence of the applicant has been supported. Applicant is in jail in this case since 15.09.2023 without any criminal antecedents. Charge sheet in this case has also been submitted and the presence of the applicant could be secured before the trial court by placing 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 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- **Priyanka Yadav** 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 on the merits of the case.

**Order Date :- 22.11.2023**

Praveen