

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14487 of 2023

Applicant :- Rajkumari

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

Counsel for Applicant :- Abhishek Pandey, Baljit Pandey, Krishna Dutt Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard Shri Abhishek Pandey, learned counsel for the applicant, Shri Ravish Chandra Mishra, learned AGA for the State and perused the record.

2. The present bail application has been filed by the applicant with a prayer to enlarge her on bail in Case Crime No.0479 of 2007, under Sections 498-A, 304-B I.P.C. and 3/4 D.P. Act, Police Station Inayat Nagar, District Faizabad/Ayodhya.

3. It is contended by learned counsel for the applicant that marriage of son of applicant took place with the deceased on 09.10.2005 and deceased committed suicide by hanging herself on 05.07.2007. The post mortem was conducted on 06.07.2007, on the information given from the applicant's side, FIR was not lodged promptly. However, an application under Section 156(3) Cr.P.C. was filed on 06.08.2007 and in pursuance of the direction issued by the Court, FIR was lodged on 22.08.2007. It has been submitted by learned counsel for the applicant on 24.08.2007 the statement of witnesses were recorded under Section 161 Cr.P.C. in which the mother of the deceased stated that her daughter was suffering from fits and she committed suicide.

4. Similarly, the statement of witness Dukhi, Ram Bhawan and Duggu were recorded and after recording statements, the Investigating Officer found that it was not a case where the applicant and his family members were liable to be charged therefore, final report was filed in the court on 17.12.2007. The protest was moved by the mother of the deceased and the order was passed by court below for further investigation on 03.02.2016.

5. The investigation was done and thereafter charge sheet was filed. The statement of mother of the deceased has been recorded and she has levelled allegation of dowry demand mentioning therein that motorcycle and golden chain was demanded by the applicant and other family members. She further stated that her daughter was

harassed by the applicant and her family members that is why deceased committed suicide.

6. The Investigating Officer has asked several questions and he also asked whether any compromise had taken place and she in reply stated that earlier case was over but when Advocate advised she filed application. She mentioned that compromise was done due to pressure of the family members. Learned counsel has submitted that the statement under Section 161 Cr.P.C. of the mother/complainant is dubious and she has changed her statement from time to time. She further submitted that it is a fact that deceased was suffering from fits that is why she committed suicide and applicant has no concern with the allegation levelled in the FIR as well as 161 Cr.P.C. statement.

7. Learned counsel submitted that applicant did not assault the deceased and she is an old lady of 56 years of age, is in jail since 12.06.2023. The applicant has no criminal history. Learned counsel submits that the applicant is a lady and further requested for the benefit of Section 437 Cr.P.C.

8. Learned AGA opposed the prayer for bail and submitted that mother is opposing the case that is why she filed protest application on which further investigation was directed and thereafter charge sheet was filed. It is submitted that the deceased received six injuries therefore, bail is liable to be rejected.

9. Considering the facts and circumstances of the case, looking to the argument that earlier, final report was submitted on the basis of statement of witnesses ; argument that deceased was suffering from fits and committed suicide; argument that applicant is mother-in-law languishing in jail for the last six months; therefore, case of the applicant is distinguishable from other co-accused and bail is liable to be granted.

10. Let the applicant, Rajkumari 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 :- 8.12.2023

Pks