Court No. - 33

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6460 of 2024
Applicant :- Smt. Fatima Bano
Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Civil Sectt. Lko
Counsel for Applicant :- Nijam Ahamad
Counsel for Opposite Party :- G.A.,D.P. Dutt Tiwari,Manish Kumar Jaiswal

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Shri Nijam Ahmad, learned counsel for the applicant, Shri Manish Kumar Jaiswal, learned counsel for the first informant and Shri Devesh Kumar, learned A.G.A. for the State through Video Conferencing and perused the record.

2. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 266 of 2023, under Sections-147, 302 IPC, Police Station-Jethwara, District Pratapgarh, during the pendency of the trial.

3. Contention of learned counsel for the applicant is that on the basis of general allegation, the entire family members have been implicated. It is further submitted that as per the post mortem report, cause of death of the deceased is strangulation and no specific role was assigned to any of the accused and there is no eye witness of the incident. It is further submitted that the co-accused Mohd. Shabbir has been enlarged on bail in Criminal Misc. Bail Application No.6843 of 2023. The applicant is a law abiding citizen and he is languishing in jail since 22.11.2023. In case, he is granted bail, he will not misuse the liberty of bail and would cooperate in the trial proceedings.

4. Learned counsel for the first informant as well as learned A.G.A. have opposed the prayer for bail and submitted that the applicant along with other co-accused persons have murdered Dilip Jaiswal by strangulation in their house. Therefore, no case for bail is made out.

5. Having heard learned counsel for the parties and perused the record, it appears that the first informant in the first information report as well as in her statement made allegation that the

deceased, Dilip Jaiswal was murdered by all the accused persons by strangulation and after committing his murder, co-accused Mohd. Ashif himself informed to the first informant about the incident. In their statements, first informant as well as his father stated that the deceased Dilip Jaiswal as well as daughter of co-accused Mohd Sayeed (Nazia Bano) were having relationship.

6. However, considering the entire facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view of the nature of the offence that there is no eye witness and general nature of the allegation was made against all the accused. Therefore, without expressing any opinion on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant- **Smt. Fatima Bano** involved in the aforementioned crime be released on bail, on his furnishing a personal bond and two sureties each in the like amount, to the satisfaction of the court concerned, with the following conditions:-

1. The applicant shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation or trial.

2. The applicant shall cooperate in the trial sincerely without seeking any adjournment.

3. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 12.7.2024
RKM

Digitally signed by :-
RAJESH KUMAR MAURYA
High Court of Judicature at Allahabad,
Lucknow Bench