

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13139 of 2024

Applicant :- Usha Devi

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

Counsel for Applicant :- Dwijendra Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan,J.

1. Heard Sri Dwijendra Mishra, learned counsel for the applicant and Ms. Sudha Sharma, learned A.G.A. for the State.

2. It has been contended by the learned counsel for the applicant that the applicant is in jail since 9.9.2024 in Case Crime no. 0294 of 2024 u/s 85/80(2) BNS & 3/4 D.P. Act, P.S. Mahmudabad, District Sitapur. It has been submitted that the applicant has been falsely implicated in this case as she has not committed any offence as alleged.

3. Attention has been drawn towards the impugned F.I.R. wherein general allegations have been levelled against all family members including the present applicant. The present applicant is mother-in-law of the victim (since deceased). No specific role has been attributed to her. The relation of the present applicant with her daughter-in-law (since deceased) was cordial and she has never demanded any dowry from her or her family members. The F.I.R. has been lodged having ulterior motive and extraneous design in the mind of the complainant. The cause of death is hanging. There is no antemortem injury except one ligature mark around the neck area which might be caused due to hanging. Charge-sheet has been filed in this case.

4. The learned counsel for the applicant has given an undertaking on behalf of applicant that the applicant shall not misuse the liberty of bail and shall cooperate with the trial proceedings and shall abide by all terms and

conditions of bail, if granted.

5. Learned A.G.A. opposed the prayer for bail but could not dispute the aforesaid facts as argued by the learned counsel for the applicant.

6. Without entering into the merits of the case and considering the arguments of learned counsel for the parties, contents and allegations of the F.I.R., the fact that no specific role has been assigned to the present applicant, only general allegations have been levelled against the applicant, she has never demanded any dowry from the victim (since deceased) or her family members, no specific role has been assigned to the present applicant, the cause of death is hanging, there is no antemortem injury except one ligature mark around the neck area which might be caused due to hanging, charge-sheet has been filed and the undertaking given on behalf of the applicant that she shall not misuse the liberty of bail and shall cooperate in the trial proceedings, the applicant is entitled to be released on bail in this case.

7. Bail application is **allowed**.

8. Let the applicant **Usha Devi**, involved in aforesaid case crime be released on bail on her furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) The applicant shall file an undertaking to the effect that he / 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 his absence, without sufficient cause, the trial court may proceed against him / her under Section 269 of the B.N.S., 2023.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under

Section 84 of B.N.S.S., 2023 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 him / her in accordance with law, under Section 208 of the B.N.S., 2023.

(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 351 of B.N.S.S., 2023. 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 him / her in accordance with law.

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(Rajesh Singh Chauhan, J.)

Order Date :- 19.12.2024

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