

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13129 of 2024

Applicant :- Momina

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

Counsel for Applicant :- Nijam Ahamad

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan,J.

1. Heard Sri Nijam Ahmad, learned counsel for the applicant and learned AGA for the State.

2. As per learned counsel for the applicant, the present applicant is in jail since 23.08.2024 in Case Crime No.122 of 2024, under Section 105 of B.N.S., Police Station - Bewana, District - Ambedkar Nagar.

3. Learned counsel for the applicant has submitted that the present applicant has been falsely implicated in the case as she has not committed any offence as alleged. Attention has been drawn towards the impugned FIR wherein allegation has been levelled against four accused persons including the present applicant. As per allegation, co-accused Hadisul compelled the grand son of the informant to do some electric repairing work forcefully though the electricity was running and due to electric shock, his grand son died. The only allegation against the present applicant is that she was also present in the house at that point of time. No other allegation has been levelled against the present applicant. Despite the aforesaid fact, charge sheet has been filed against the present applicant. The present applicant is having no prior criminal history of any kind whatsoever. Further submission is that co-accused Bablu, having similar role, has been granted bail by this Court vide order dated 12.12.2024 passed in Criminal Misc. Bail Application No.12816 of 2024, therefore, on the basis of principles of parity, the present applicant may also be enlarged on bail. Further, the applicant undertakes that if she is released on bail, she shall not misuse the liberty of bail and shall abide by all terms and conditions of the bail order and shall cooperate in the trial proceedings. Besides, being lady, the applicant may be enlarged on bail giving her the benefit of Section 480 of BNSS.

4. Learned A.G.A. has, however, opposed the prayer for bail but

he could not dispute the aforesaid submissions of learned counsel for the applicant.

5. Without entering into merits of the issue; considering the arguments of learned counsel for the parties; contents and allegations of the FIR; the fact that only allegation against the present applicant is that she was present in the house at the time of incident when grand son of the informant was doing some electric repairing work and died due to electric shock and no other allegation has been levelled against her; co-accused Bablu, having similar role, has been granted bail by this Court; the applicant being lady may be given the benefit of Section 480 of BNSS; the applicant is having no prior criminal history of any kind whatsoever and undertaking of the applicant that she shall cooperate in the trial proceedings and shall not misuse the liberty of bail, I find it appropriate to release the applicant on bail.

6. Accordingly, the bail application is **allowed**.

7. Let applicant- Momina be released on bail in the aforesaid case crime number 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:-

(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 269 of the B.N.S., 2023.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure her presence proclamation under Section 84 of the 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 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 the 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 her in accordance with law.

(v) The applicant shall not leave India without previous permission of the court.

[Rajesh Singh Chauhan,J.]

Order Date :- 19.12.2024
RBS/-