

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13235 of 2024

Applicant :- Smt. Roopa Devi

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

Counsel for Applicant :- Ali Akhtar Zaidi, Jalis Ahmad

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan, J.

1. Sri Rudra Pratap Singh, Advocate has filed his Vakalatnama today in Court on behalf of complainant/informant. The same is taken on record.
2. Second Supplementary affidavit has been filed by the learned counsel for the applicant. The same is taken on record.
3. Heard Sri Ali Akhtar Zaidi, learned counsel for the applicant as well as Sri Rudra Pratap Singh, learned counsel for the complainant/informant and Sri Vivek Gupta, learned Additional Government Advocate for the State.
4. As per learned counsel for the applicant, the present applicant is languishing in jail since 13.11.2024 in Case Crime No. 367/2024, under Section 108 BNS, Police Station Huzurpur, District Bahraich.
5. Learned counsel for the applicant has submitted that the present applicant has falsely been implicated in this case as she has not committed any offence as alleged in the prosecution story. Attention has been drawn towards impugned F.I.R., wherein the date of incident has been indicated 20.08.2024 but the F.I.R. has been lodged on 13.09.2024 without explaining aforesaid inordinate delay. The present applicant is the sole accused. As per allegation present applicant who is middle aged lady having five children tortured the deceased as she was not returning the amount, which was given by the deceased to the applicant and when the deceased was asking his money, she was threatening her for dire consequences. On a fateful day the applicant called the deceased in a night and talked with him about 42 minutes on Audio and 04 minutes on video call. As per the aforesaid conversation when the deceased told her that he will commit suicide, she said that those persons who threatens that they will commit suicide, do not do the same and on such statement, the applicant commit suicide.
6. Learned counsel for the applicant further stated that there is no material evidence that the deceased had given a sum of

rupees of Rs. 50,000/- to the applicant, except the aforesaid call, there is no incriminating material to suggest that the present applicant has instigated/abetted the deceased to commit suicide. As there is no overt or positive act of the present applicant for instigating the deceased, the factum of instigation/abetment to commit suicide may be ascertained/established during the course of trial. Being an middle aged lady she should be given benefit of Section 480 of BNSS. and she may be enlarged on bail. The present applicant has no previous criminal history and the charge sheet has been submitted in the case.

7. Learned counsel for the applicant has undertaken on behalf of the present applicant that the applicant shall not misuse the liberty of bail, if so granted by this Court and shall abide by all terms and conditions of the bail order and shall cooperate with the trial proceedings.

8. Learned Additional Government Advocate as well learned counsel for the informant has, however, opposed the prayer for bail and stated that the aforesaid video call of the present applicant is a piece of evidence suggesting the factum of abetment, therefore, the offence under Section 108 BNS is, prima facie made out against her.

9. Therefore, without entering into the merits of the issue and considering the fact that there is no material evidence that the deceased had given a sum of rupees of Rs. 50,000/- to the applicant, except the aforesaid call, there is no incriminating material to suggest that the present applicant has instigated/abetted the deceased to commit suicide. As there is no overt or positive act of the present applicant for instigating the deceased, the factum of instigation/abetment to commit suicide may be ascertained/established during the course of trial and considering the undertaking of the applicant that she shall co-operate in the trial proceedings and shall not misuse the liberty of the bail and, without expressing any opinion on merits of the case, I find it a fit case for bail. Accordingly, the bail application is **allowed**.

10. Let the **applicant- Smt Roopa Devi** 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 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 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.

(Rajesh Singh Chauhan,J)

Order Date :- 20.12.2024

Arvind