

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13249 of 2024

Applicant :- Sunderpati

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

Counsel for Applicant :- Dinesh Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan,J.

1.Learned counsel for the applicant has filed supplementary affidavit enclosing therein the statement of witnesses. The same is taken on record.

2. Heard Sri Dinesh Kumar Shukla, learned counsel for the applicant and Sri Hari Shanker Maurya, learned Additional Government Advocate for the State.

3. As per learned counsel for the applicant, the present applicant is languishing in jail since 29.10.2024 in Case Crime No. 465/2024, under Sections 190, 191(2), 191(3) 115(2), 109, 103 B.N.S. and Section 7 Criminal Law Amendment Act, Police Station Colonelganj, District Gonda.

4. 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 general allegation of assault and beating has been levelled against seven accused persons including the present applicant. He further stated that no specific role has been attributed to the present applicant. Nothing incriminating has been recovered from the possession of the present applicant and being an old aged lady she may be given benefit of Section 480 of BNSS.

5. Learned counsel for the applicant further stated that main allegation is against co-accused Brahmadeen, Munna, Suresh and Mukesh and on pointing out of those four accused persons, the weapon used in committing crime i.e. knife, Gadasa (Axe), Bhala (Spear) have been recovered. The present applicant is having no prior criminal history of any kind whatsoever and investigation is going on and the applicant undertakes that he shall cooperate in the investigation and shall not misuse the liberty if provided by this Court and prays that she may be enlarged on bail.

6. 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.

7. Learned Additional Government Advocate as well learned counsel for the informant has, however, opposed the prayer for bail but he has not disputed the aforesaid submission of learned counsel for the applicant.

8. Therefore, without entering into the merits of the issue and considering the fact that the general allegation of assault and beating has been levelled against seven accused persons including the present applicant and no specific role has been attributed to the present applicant. Nothing incriminating has been recovered from the possession of the present applicant 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**.

9. Let the **applicant- Sunderpati** 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.

(v) As soon as the present applicant is released from jail, she shall immediately appeared before the Investigating Officer to co-operate in the Investigation.

(Rajesh Singh Chauhan,J)

Order Date :- 20.12.2024
Arvind