

Court No. - 79

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 28651 of 2023

Applicant :- Smt. Kunti Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Sushil Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri S.K. Pandey, learned counsel for the applicant and Sri C.L. Chaudhary, learned AGA-I for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 160 of 2021, under Section 302 IPC, Police Station- Kadaura, District- Jalaun, during pendency of the trial in the below.

3. FIR of the present case was lodged on 18.08.2021 under Section 302 IPC and according to the FIR, applicant is the wife of the deceased and she along with her husband on 02.08.2021 had gone at her paternal home and on 03.08.2021, by strangulating her husband, she committed his murder as relationship of the applicant and deceased was not cordial.

4. Learned counsel for the applicant submitted that applicant is the wife of the deceased and on the basis of false allegation, she has been made accused in the present matter. He further submitted that FIR of the present case was lodged after about two weeks and this fact itself shows that on the basis of false allegation, applicant has been made accused in the present matter.

5. He further submitted that actually, husband of the applicant i.e. deceased remained ill and one Neeraj used to treat her husband by doing some 'jhar-fook' and he was having bad intention towards the applicant and on 03.08.2021, he visited the house of the applicant and it appears that he committed the murder of the deceased and this fact has been specifically averred in paragraph no. 21 of the affidavit.

6. He further submitted that applicant herself immediately informed the police about the incident and on her information,

inquest proceeding was conducted and this fact is even evident from the inquest report, which has been annexed at page no. 34 of the paper book. He further submitted that except the suspicion, there is no other evidence against the applicant on record.

7. He further submitted that even from the FIR, it reflects that in the paternal home of the applicant, her brother and her father also resided. He further submitted that applicant is a lady, therefore, she may be released on bail.

8. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is the wife of the deceased and from the autopsy report, it appears that deceased died due to strangulation and he was murdered in the house of the applicant.

9. He further submitted that from the statement of the brother of the applicant namely Ram Chandra, recorded under Section 161 Cr.P.C., which has been annexed at page no. 58 of the paper book, it appears that deceased and applicant along with their children resided in a separate house, therefore, it was the responsibility of the applicant to explain the murder of her husband but she failed to properly explain his death.

10. He further submitted that from the perusal of the inquest report, it appears that after the death, a wrong information was furnished with regard to the death of the deceased by the applicant and inquest report shows that applicant informed the police that due to illness, her husband died and therefore, applicant should not be released on bail.

11. I have heard learned counsel for the parties and perused the record of the case.

12. Although, applicant is a lady but she is the wife of the deceased and her husband was murdered in her house and as per the prosecution, at the time of murder, deceased was along with the applicant and not only this, after the death of her husband, applicant furnished a wrong information to the police that due to illness her husband has expired and this fact is evident from the inquest report, which has been annexed along with the instant bail application and autopsy report of the deceased shows that he died due to strangulation.

13. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant, who is the wife of the deceased, is not entitled to be released on bail.

14. Accordingly, the instant bail application is ***rejected***.

15. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 30.6.2023

KK Patel