

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40163 of 2023

Applicant :- Km. Pratiksha

Opposite Party :- State of U.P.

Counsel for Applicant :- Keshav Hari Dixit, Jitendra Kumar, Purushottam Dixit

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth, J.

List of fresh cases has been revised.

Today lawyers are on strike. The liberty of an individual cannot be curtailed because lawyers are abstaining from Court.

Heard learned AGA for the State and perused the material placed on record.

The instant bail application has been filed on behalf of the applicant, **Km. Pratiksha**, with a prayer to release her on bail in **Case Crime No. 41 of 2023, under Sections 498-A, 304-B, 323 IPC and Section 3/4 D.P. Act, Police Station Basrehar, District-Etawah**, during pendency of trial.

There is allegation against the applicant of causing dowry death of his sister-in-law (Bhabhi).

It appears from record that deceased consumed poison. In the dying declaration of the deceased recorded by the Investigating Officer, she made allegation against the applicant, her mother-in-law and husband. It also appears that victim was got treated by her husband in Ujala Cygnus Rainbow Hospital, Agra, but she could not be saved. The applicant is entitled to benefit of Section 437 Cr.P.C. The applicant alleges false implication. She has no criminal history to her credit and is languishing in jail since 3.7.2023.

Learned A.G.A. has opposed the prayer for bail of the applicant.

Having considered the submissions of the parties noted above, larger mandate of the Article 21 of the Constitution of India, considering the dictum of Apex Court in the case of **Satendra Kumar Antil Vs. C.B.I. & Another, passed in S.L.P.(Crl.) No. 5191 of 2021, judgement dated 11.7.2022 and considering 5-6 times overcrowding in jails over and above their capacity by under trials** and without expressing any opinion on the merits of the case, let the applicant involved in the aforesaid 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 that :-

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) 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.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of her absence, without sufficient cause, the Trial Court may proceed against her under Section 229-A of the Indian Penal Code.

(iv) In case the applicant misuse the liberty of bail during trial and in order to secure her presence, proclamation under Section 82 Cr.P.C. 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 174-A of the Indian Penal Code.

(v) 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 313 Cr.P.C. 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.

In case, of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Identity and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 14.9.2023

Ruchi Agrahari