

Smt. Prema vs State Of U.P. on 31 January, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:14231

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 830 of 2025

Applicant :- Smt. Prema

Opposite Party :- State of U.P.

Counsel for Applicant :- Apul Misra, Devvrat Misra

Counsel for Opposite Party :- Abrar Ahmad Siddiqui, G.A.

Hon'ble Sameer Jain, J.

1. Sri Amit Tripathi, learned Advocate submits, he has filed power on behalf of the informant in the Registry of this Court but his name could not be shown in the cause list. However, he submits, he is ready to argue the case.
2. Heard Sri Apul Misra, learned counsel for the applicant, Sri Abrar Ahmad Siddiqui and Sri Amit Tripathi, learned counsels for the informant and Dr. S.B. Maurya, learned AGA-I for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 413 of 2024, under Sections 191(2), 191(3), 190, 333, 103(1), 109, 3(5) B.N.S., Police Station Nigohi, District Shahjahanpur during pendency of the trial.
4. FIR of the present case was lodged on 30.07.2024 against applicant and five others and according to the FIR on 30.07.2024 at about 7.00 AM in the morning while father and sister of the informant was sleeping, applicant and other accused persons entered in his house and co-accused persons, who were having firearm opened fire and due to the fire made by them his father sustained injuries

and died.

5. It is further mentioned in the FIR that applicant was having Banka and co-accused Gayatri was having sword in their hand and they also made assault through sharp edge weapon. It is further mentioned in the FIR that in the incident sister of the informant also died and number of persons sustained injuries.

6. Learned counsel for the applicant submits, however, it is a case of double murder and in the alleged incident as per prosecution four persons also sustained injuries but totally on the basis of false allegation, applicant has been made accused in the present matter and she never participated in the alleged crime.

7. He further submits, it is a case of over implication and applicant, who is a lady, has been made accused along with her family members only due to previous enmity.

8. He further submits, even from the post mortem report, it reflects that both the deceased sustained only firearm injury and it is admitted case of the prosecution that applicant was not having any firearm and no role of causing injury to the deceased has been assigned to her. He further submits, however, in the incident as per allegation four other persons also sustained injuries but they also did not sustain any injury from Banka.

9. He further submits, as per FIR and statement of the informant applicant was having Banka in her hand but subsequently the injured witnesses started making allegation that applicant made assault along with other accused through wooden stick and this fact again suggests that actually applicant did not participate in the alleged incident and she has been falsely made accused. It is further argued, even all the injured sustained injuries on their non vital parts.

10. He further submits, applicant is lady and she is not having any criminal history and in the present matter she is in jail since 31.07.2024 i.e. for last six months.

11. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted, it is a case in which two persons lost their lives and four persons sustained injuries and applicant is named in the FIR and considering the fact that applicant was also having common object to commit the alleged crime her bail application should be dismissed.

12. They further submitted that even the injured persons categorically stated that applicant was having wooden stick and she actively participated in the alleged crime.

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

14. However, it is a case of double murder and in the incident it appears, four persons also sustained injuries and applicant is also named in the FIR but from perusal of the FIR and statement of informant it reflects that as per informant applicant was having Banka in her hand and however, during investigation when the statements of injured witnesses were recorded then they stated, she

was having wooden stick in her hand but from perusal of the post mortem report of both the deceased it could not be reflected that they either sustained injury from Banka or wooden stick and post mortem report suggests that both the deceased sustained firearm injury and there is no allegation that applicant was armed with firearm. Therefore, it appears, applicant did not cause any injury to deceased.

15. Further, however record suggests that in the incident four persons also sustained injuries but their injuries were on non vital part. Further, injury reports of injured show that they sustained injuries by hard and blunt object and firearm and however as per the statements of injured applicant and one another were having wooden stick but as per the FIR and statement of informant, applicant was having Banka, therefore, there are material contradiction with regard to weapon of the applicant. Considering this fact, the submission advanced by learned counsel for the applicant that actually it appears to be a case of over implication and only due to the reason that applicant is the family member of other male accused, she has been made accused in the present matter, cannot be ruled out.

16. Further, applicant is lady and she is not having any criminal history and in the present matter she is in jail since 31.07.2024 i.e. for last six months.

17. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

18. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is allowed.

19. Let the applicant - Smt. Prema be released on bail in the aforesaid case on 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 appear before the trial court on the dates fixed, unless her personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

20. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

21. 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 :- 31.1.2025 AK Pandey