

Shyama Kumari vs State Of U.P. Thru. Prin. Secy. Home Lko ... on 27 February, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:11899

Court No. - 15

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1779 of 2025

Applicant :- Shyama Kumari

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

Counsel for Applicant :- Shivendra S Singh Rathore, Abhishek Upadhyay, Atul Sharma, Bhavesh

Counsel for Opposite Party :- G.A.

Hon'ble Shree Prakash Singh, J.

Heard learned counsel for the applicant, the learned A.G.A. for the State and perused the record.

The instant bail application has been filed on behalf of the applicant with a prayer to release the applicant on bail during the trial in Case Crime No.0531 of 2024, under Sections 137(2), 143, 61(2) of Bhartiya Nyaya Sanhita, 2023 and Sections 80, 81, 84 of Juvenile Justice (Care and Protection of Children) Act, P.S.-Gudamba, District - Lucknow.

It is contended by learned counsel for the applicant that the applicant is innocent and she has been falsely implicated in the present case. He submits that the applicant is woman and she was not involved in committing the offence. He submits that due to animosity, name of the present applicant is placed while alleging that she had kidnapped the infant of one day and the same was got recovered by the applicant herself. He submits that the story narrated in the F.I.R. is highly improbable as the delivery took place on 29th December 2024 and the date of incident is of 30th

December 2024 as it has been stated that the mother of the infant was taking the infant to the doctor, wherein on the way, the infant was kidnapped. He submits that there was some dispute with respect to payment of bill of the hospital and for mounting pressure in order to not paying the bills, the story has been cooked up and the applicant including other co-accused have been implicated. Further submission is that there is no previous criminal history of the applicant and the applicant is languishing in jail since 31.12.2024 and in case, the applicant is granted bail, she will not misuse the liberty and would co-operate in the trial proceedings.

Per contra, learned A.G.A. vehemently opposed the prayer of bail and submitted that the applicant is involved in committing the aforesaid offence, as such, she is not entitled to be released on bail.

Having heard the learned counsel for the parties and after perusal of record, it transpires that the applicant is woman; the delivery took place on 29th December 2024 and it is alleged that in fact, the infant was being taken up for treatment which seems to be an improbable story; there is no previous criminal history of the applicant; and the applicant is languishing in jail since 31.12.2024; and she has undertaken that she will not misuse the liberty of bail if granted and would co-operate in the trial proceedings.

Considering the submissions of learned counsel of both sides, nature of accusation and severity of punishment in case of conviction, nature of supporting evidence, prima facie satisfaction of the Court in support of the charge, reformatory theory of punishment and considering larger mandate of the Article 21 of the Constitution of India and, without expressing any view on the merits of the case, I find it to be a case of bail.

Let the applicant Shyama Kumari involved in the aforementioned 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:-

- (1) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, or otherwise during the investigation or trial;
- (2) 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. She 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 229-A of the Indian Penal Code;
- (3) 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.; and (4) In case, the applicant misuses 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, the trial court shall initiate proceedings against her, in accordance with law under Section 174-A of the Indian Penal Code.

The identity, status and residential proof of sureties will be verified by the court concerned and in case of breach of any of the above conditions, the court below shall be at liberty to cancel the bail and send the applicant to prison.

It is clarified that the observations made in this order are strictly confined to the disposal of this bail application and must not be construed to have any reflection on the merits of the case.

Order Date :- 27.2.2025 Ram Murti