

Poonam Devi vs State Of U.P. on 5 September, 2022

Author: Manish Mathur

Bench: Manish Mathur

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 36406 of 2022

Applicant :- Poonam Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Adesh Kumar Dixit

Counsel for Opposite Party :- G.A.

Hon'ble Manish Mathur,J.

Heard learned counsel for the applicant and learned A.G.A.

The instant bail application has been filed on behalf of the applicant, Poonam Devi, with a prayer to release him on bail in Case Crime No. 265 of 2022, under Sections 363,370(5),311,120-B IPC Police Station Gandhi Park, District- Aligarh, during pendency of trial.

There is allegation against the applicant and co-accused Neha that they have kidnapped minor child of the informant.

Learned counsel for the applicant has submitted that main role has been assigned to the co-accused Neha. Applicant is mother-in-law of the co-accused Neha. Co-accused Abhishek @ Rajul Tomar has been granted bail by this court vide order dated 2.8.2022 passed in Criminal Misc. Bail Application No. 33100 of 2022. The applicant is in jail since 25.4.2022. The applicant has criminal history of one

case, which has been explained in affidavit.

Learned A.G.A. has opposed the bail prayer of the applicant but could not dispute the aforesaid facts.

Considering submissions advanced by learned counsel for parties and upon perusal of material on record, it appears that the applicant is not named in the F.I.R. and that her name has been included only on the basis of alleged confessional statement of one Usha who has already been enlarged on bail by coordinate Bench of this Court vide order dated 3.8.2022 in criminal misc. bail application No. 29901 of 2022. Other three co-accused Abhishek @ Rajul Tomar, Vishnu and Vimla Devi have also been enlarged on bail by this Court.

Keeping in view the nature of the offence, argument advanced on behalf of the parties, evidence on record regarding complicity of the accused, larger mandate of the Article 21 of the Constitution of India and the dictum of Apex Court in the case of Dataram Singh Vs. State of U.P. and another reported in (2018)3 SCC 22 and recent judgement dated 11.7.2022 of the Apex Court in the case of Satendra Kumar Antil Vs. C.B.I., passed in S.L.P. (CRL.) No. 5191 of 2021 and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

Let the applicant 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 subject to following conditions. Further, before issuing the release order, the sureties be verified.

1. The applicant shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation or trial.
2. The applicant shall cooperate in the trial sincerely without seeking any adjournment.
3. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.
4. That the applicant shall not, directly or indirectly, make any 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 to any police officer;
5. The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence and 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 to ensure presence of the applicant.
6. 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 default of this condition is deliberate or without sufficient cause,

then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law.

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

Order Date :- 5.9.2022 Prabhat