

## **Smt. Sunita @ Satto vs State Of U.P. on 3 June, 2022**

**Author: Sanjay Kumar Pachori**

**Bench: Sanjay Kumar Pachori**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 49

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13969 of 2022

Applicant :- Smt. Sunita @ Satto

Opposite Party :- State of U.P.

Counsel for Applicant :- Dhiraj Kumar Pandey

Counsel for Opposite Party :- G.A., Akhilesh Kumar

Hon'ble Sanjay Kumar Pachori, J.

Heard Sri Dhiraj Kumar Pandey, learned counsel for the applicant and Sri Manoj Kumar Dwivedi, learned A.G.A. for the State and perused the material on record.

The present bail application has been filed on behalf of applicant Smt. Sunita @ Satto under Section 439 of the Code of Criminal Procedure, with a prayer to release him on bail in Case Crime No. 0156 of 2021 for offence punishable under Sections 498-A, 304-B, 328 of the Indian Penal Code and 3/4 D.P. Act, registered at Police Station- Titaro, District- Saharanpur, during pendency of the trial, after rejecting the bail application of the applicant by Sessions Judge, Saharanpur vide order dated 17.02.2022.

Brief facts of the present case are that the first information report dated 28.11.2021 has been lodged against the applicant and three other named family members of the applicant including the husband of the deceased by the brother of the deceased stating therein that marriage of his sister Menka was

solemnized with accused Rohit on 02.03.2020 and spent Rs. 8 lakhs in the marriage ceremony but the applicant and other co-accused were not satisfied with the dowry given by the first informant and due to this reason they commit marpeet with her and threatened her for dire consequences. After that first informant paid Rs. 50,000/-. On 27.11.2021 at about 4:00 p.m he was informed on phone that the applicant and other co-accused persons by intoxicating poison murdered his sister. On the information he reached the matrimonial house of his sister along-with other family members and saw that dead body of his sister was lying in the verandah and the applicant and other in-laws of his sister fled away from the place of incident.

Before lodging of the first information report, the inquest of the body of the deceased was conducted on 27.11.2021 at 21:15 hrs, postmortem of the body of the deceased was conducted on 28.11.2021 at 1:00 p.m. As per inquest as well as postmortem report no external injury was found on the person of the deceased. The doctor opined that cause of death could not be ascertained and viscera preserved for medical analysis, no external injury and or mark of injury was found on the person of the deceased. After recording the statements of the first informant and other prosecution witnesses under Section 161 of Cr.P.C., the Investigating Officer has submitted charge-sheet on 05.03.2022 against the applicant and her husband and co-accused Rohit (husband of the deceased). The Investigating Officer exonerated co-accused Mohit (brother-in-law of the deceased). The applicant was arrested on 09.12.2021.

Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case due to ulterior motive. It is further submitted that the applicant is mother-in-law of the deceased. General allegation of demand of dowry, harassment and cruelty has been levelled against the applicant. No specific role and involvement has been attributed to the present applicant. It is further submitted that no external injury was found on the person of the deceased. The marriage of her son co-accused Rohit was solemnized with deceased prior one year eight months of the incident. The applicant with her husband is living separately and the applicant was not residing with the deceased and her husband. Co-accused Mukesh (father-in-law of the deceased) was granted bail by the co-ordinate Bench of this Court vide order dated 11.05.2022 passed in Criminal Misc. Bail Application No. 14272 of 2022 (having similar role).

The applicant has no criminal history. He has next argued that if the applicant is released on bail, she shall not misuse the liberty of bail.

Per contra, learned A.G.A. has supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the applicant and submits that the police has arrested the present applicant after filing of writ petition before this court and further submits that allegations involved are very serious in nature and the delay in lodging the F.I.R. cannot be said to be fatal to the case at this juncture while considering the application of bail. But he could not point out any material to the contrary. He further submits that in case the applicant is released on bail, he will again indulge in similar activities and will misuse the liberty of bail.

After considering the facts of the present case it prima facie appears that;

- (a) the applicant is mother-in-law of the deceased;
- (b) general allegation of demand of dowry, harassment and cruelty has been levelled against the applicant;
- (c) no specific role or involvement has been attributed to the present applicant;
- (d) no external injury was found on the person of the deceased;
- (e) viscera report is still awaited;
- (f) co-accused Mukesh (father-in-law of the deceased) having similar role has been granted bail by the co-ordinate Bench of this Court.

It is a settled law that while granting bail, the court has to keep in mind the nature of accusation, the nature of the evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, the circumstances which are peculiar to the accused, his role and involvement in the offence, his involvement in other cases and reasonable apprehension of the witnesses being tampered with.

Taking into account the totality of facts and keeping in mind, the ratio of the Apex Court's judgment in the case of State of Rajasthan v. Balchand @ Baliay (1977) 4 SCC 308, Gudikanti Narasimhulu And Ors., v. Public Prosecutor, High Court Of Andhra Pradesh, AIR 1978 SC 429, Ram Govind Upadhyay v. Sudarshan Singh & Ors., (2002) 3 SCC 598, Prasanta Kumar Sarkar v. Ashis Chatterjee & Anr., (2010) 14 SCC 496 and Mahipal v. Rajesh Kumar & Anr., (2020) 2 SCC 118, the larger interest of the public/State and other circumstances, but without expressing any opinion on the merits, I am of the view that it is a fit case for grant of bail. Hence, the present bail application is allowed.

Let applicant, Smt. Sunita @ Satto be released on bail in the aforesaid case crime number on his furnishing a personal bond and two reliable sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:

- (i) 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 or tamper with the evidence.
- (ii) The applicant shall not pressurize/intimidate the prosecution witnesses.
- (iii) 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 of Cr.P.C.

(iv) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in the trial court.

(v) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel.

(vi) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail. If in the opinion of the trial court that 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 in accordance with law.

The trial court may make all possible efforts/endeavor and try to conclude the trial expeditiously in accordance with law after the release of the applicant, if there is no other legal impediment.

It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything said in this order.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad, self attested by the applicant along-with a self attested identity proof of the said person (preferably Aadhar Card) mentioning the mobile number to which the said Aadhar Card is linked.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

Order Date :- 3.6.2022 PS