

## Smt. Pinki vs State Of U.P. on 30 August, 2022

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 37557 of 2022

Applicant :- Smt. Pinki

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Ojha

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Sadhna Rani (Thakur),J.

Heard learned counsel for the applicant as well as learned A.G.A. and perused the record.

The accused- applicant Smt. Pinki, is involved in Case Crime No. 175 of 2022, under Sections 120B, 364, 302, 201 I.P.C., Police Station Gajraula, District- Amroha.

It is submitted by the learned counsel for the applicant that the applicant is not named in the FIR. It was registered on 06.04.2022 regarding missing of the seven years old son of the first informant since 05.04.2022. For the first time, in the application dated 07.04.2022 of the first informant, it has come that Sanjay Agarwal son of Suresh Chandra had seen the kidnapped child with Madan and Vipin and when Madan and Vipin were arrested in the statement of Madan, for the first time, the name of the applicant has been surfaced. The role assigned to the applicant is only that she got the clothes of the kidnapped child namely Tinku Chauhan for the purpose of worship. Co-accused Happu @ Rajveer Chauhan has been granted bail by the co-ordinate Bench of this Court vide order dated 04.08.2022 passed in Criminal Misc. Bail Application No.22796 of 2022, therefore, the applicant is also entitled for bail on the ground of parity. The applicant is languishing in jail since 08.04.2022 and in case she is enlarged on bail she will not misuse the liberty of bail. Hence, bail has been prayed for.

Learned A.G.A. has opposed the bail application.

From the perusal of the record, it is clear that the applicant is neither named in the FIR nor named in the statement of the first informant. When the names of co-accused persons namely Madan and Vipin came into light and police arrested these persons then Madan Chauhan in his statement has admitted that as he and his wife Pinki (applicant) could not get a child even after three years of the marriage. Pinki (applicant) was acquainted by her mother and from her maternal side relatives that some specific worship and sacrifice of a child would solve this problem of Madan and Pinki. The role assigned to the applicant- Pinki is just to bring one pair of clothes of the kidnapped child. There is allegation of the offence under Sections 120B, 364, 302, 201 I.P.C. against the applicant. She is languishing in jail since 08.04.2022.

Having heard the submissions of learned counsel for the parties, considering the seriousness of the charge and the severity of punishment in case of conviction and the nature of supporting evidence, prima facie satisfaction of the Court in support of the charge, reformatory theory of punishment, and larger mandate of the Article 21 of the Constitution of India, the dictum of Apex Court in the case of Dataram Singh v. State of U.P. and another, reported in (2018) 2 SCC 22 and without expressing any opinion on the merit of the case, I find it to be a case of bail.

Let the applicant, Smt. Pinki, who is involved in 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 subject to following conditions:-

1. The applicant will attend and co-operate in the trial pending before the court concerned on the date fixed after release.
2. She will not tamper with the witnesses.
3. She will not indulge herself in any illegal activities during the bail period.

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, if any, 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 ultimate merits of the case.

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

Order Date :- 30.8.2022 Radhika