

## Usha vs State Of U.P. on 3 August, 2022

**Author: Siddharth**

**Bench: Siddharth**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 76

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 29901 of 2022

Applicant :- Usha

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajal Krishna

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth,J.

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

There is allegation against the applicant in the FIR that the applicant informed the informant that she will get one lakh since she has given birth to a female child. Thereafter, she gave mobile number to co-accused, Neha, who is nurse for the above purpose and it is alleged that co-accused persons, Neha and Vimla Devi, kidnapped minor child of informant.

Counsel for the applicant submits that the applicant has been falsely implicated in this case. She never gave any number to the informant nor there is allegation of kidnapping against her. One of the unnamed co-accused, Abhishek @ Rajul Tomar, has already been granted bail by this Court vide Criminal Misc. Bail Application No. 33100 of 2022. The applicant is in jail since 22.04.2022 and has no criminal history to her credit.

On the other hand learned A.G.A has opposed the prayer for bail.

Keeping in view the nature of the offence, evidence, complicity of the accused, submissions of the learned counsel for the parties, 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 judgment dated 11.07.2022 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, Usha, involved in Case Crime No. 265 of 2022, under Sections- 363, 370(5), 311, 120-B IPC, Police Station- Gandhi Park, District- Aligarh, 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.

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) 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. 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.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of her absence, without sufficient cause, the Trial Court may proceed against her under Section 229-A of the Indian Penal Code.

(iv) 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 then the Trial Court shall initiate proceedings against her in accordance with law under Section 174-A of the Indian Penal Code.

(v) 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 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 against her in accordance with law.

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

Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 3.8.2022 Rohit