

Uttarakhand High Court

Amreen vs State Of Uttarakhand on 4 March, 2020

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

First Bail Application No.486 of 2019

Amreen .....Applicant

Vs.

State of Uttarakhand .....Respondent

Present :

Mr. M.C. Bhatt and Mr. Sachin, learned Advocates for the applicant.

Mr. Pratiroop Pandey, learned A.G.A. for the State of Uttarakhand.

Hon'ble Alok Kumar Verma, J.

This First Bail Application has been filed for grant of regular bail in connection with Case Crime No.439 of 2018, registered with Police Station Sitarganj, District Udham Singh Nagar, for the offences punishable under Sections 302 & 120B of the I.P.C.

2. In brief, an FIR was lodged by the father of the deceased on 07.12.2018 with the allegations that his daughter was married with co-accused Shadab. Her husband demanded dowry and used to beat the daughter of the informant. On 16.11.2018, when the daughter of the informant was in the house of the informant, her husband came, cooked food and brought sweet meat from market and afterward added the poison in the meal of her daughter. Next day, it was found that his daughter was dead.

3. Heard Mr. M.C. Bhatt, learned counsel for the applicant and Mr. Pratiroop Pandey, learned A.G.A. for the State of Uttarakhand.

4. The learned counsel for the applicant submits that the applicant is an innocent person; the applicant is the sister of the deceased, she is just above 18 years of the age; she is in custody since 07.01.2019; in trial, six witnesses have been examined, even her name is not mentioned by any prosecution's witnesses so far and co-accused, named in the FIR, has been granted bail by this High Court.

5. The learned counsel appearing for the State opposed the bail application, however, he fairly concedes that the cause of death of the deceased was throttling; but, no evidence is on record regarding throttling, the viscera report is not received so far. He also concedes that the co-accused has been granted bail by this High Court.

6. The bail is the rule and committal to jail is an exception. Refusal of the bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution of India. In the case of Siddharam Satlingappa Mhetre vs. State of Maharashtra, (2011) 1 SCC 694, the Hon'ble Apex

Court has observed that the personal liberty is very precious fundamental right and it should be curtailed only when it becomes imperative according to the facts and circumstances of the case.

7. In the facts and circumstances of this case, there is no reason to keep the applicant behind the bars for an indefinite period.

8. Having considered the submissions of learned counsel for both the parties and facts and circumstances of the case, without expressing any opinion as to the merits of the case, this Court is of the view that the applicant deserves bail at this stage.

9. The bail application is allowed.

10. Let the applicant be released on bail on her executing a personal bond and furnishing two reliable sureties, each in the like amount, to the satisfaction of the court concerned.

(Alok Kumar Verma, J.) 04.03.2020 JKJ