

Court No. - 91

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 22067 of 2023

Applicant :- Afsana And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Kumar Dhananjay

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

Heard learned counsel for the applicants, learned A.G.A. for the State and perused the record.

This is second bail application. The first bail application was rejected by this Court on 08.12.2022.

This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicants Afsana and Ajaruddin seeking enlargement on bail during trial in connection with Case Crime/F.I.R No1101 of 2022, under Sections 328, 363, 366, 420 IPC, registered at P.S.- Vijay Nagar, District- Ghaziabad.

Submission of learned counsel for the applicants is that applicants are innocent and have been falsely implicated. According to the prosecution, the victim was missing for about 1 & 1/2 months, but prior to the alleged recovery of victim i.e. on 27.08.2022, there was no complaint/missing report by her relatives. It is further submitted that the victim was kidnapped from the guardianship of her guardian and was allegedly recovered from the Auto, which was not belonging to the applicants and they are having no concern with the alleged kidnapping. It is further submitted that the main accused Nazim, who has committed the offence under Section 376 IPC, has already been granted bail by coordinate Bench of this Court, vide order dated 14.03.2023, passed in Crl. Misc. Bail Application No. 55029 of 2022. It is also submitted that the investigating officer of the case has merely relying on the interested witnesses and submitted charge sheet against the applicants in the trial court. The trial court vide order dated 20.10.2022 has taken cognizance and *talbi* warrant has been issued against the applicants. He further submitted that due to heavy pendency, it is not possible to hear the appeal in near future. He

further submitted that the appellants have no criminal history and are in jail since 29.08.2022.

Per contra, learned A.G.A. opposed the prayer for bail but could not dispute the above facts.

Nature of accusation, evidence collected by I.O. in support of the charge, gravity of offence, nature and severity of punishment in case of conviction, complicity of accused and all other attending circumstances were duly considered.

Considering the rival submissions of learned counsel for the parties, keeping in view the facts and circumstances of the case, without expressing any opinion on merits of the case, a case for second bail is made out as fresh grounds have been pressed into service.

Accordingly, the bail application is **allowed**.

Let the applicants **Afsana** and **Ajaruddin** involved in the aforesaid case crime, be released on bail on their furnishing a personal bond and two sureties in the like amount to the satisfaction of the court concerned with the following conditions;

1. The applicants shall not tamper with the evidence or threaten the witnesses.
2. The applicants shall co-operate with the trial and shall not seek any adjournment on the dates fixed for charge, evidence when the witnesses are present in the court, statement under Section 313 Cr.P.C. and argument.
3. During trial, they shall not indulge in any criminal activities.

In breach of any condition enumerated above, Trial Court shall be at liberty to treat it as abuse of liberty of bail and pass appropriate orders in accordance with law.

Order Date :- 12.10.2023

v.k.updh.