

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 25205 of 2023

Applicant :- Fatima Begum

Opposite Party :- State of U.P.

Counsel for Applicant :- Raman Pandey, Satya Dheer Singh
Jadaun

Counsel for Opposite Party :- G.A., Chandra Kant Tripathi

Hon'ble Dr. Gautam Chowdhary, J.

1. Heard learned counsel for the applicant, learned counsel for the State, Sri Chandra Kant Tripathi, learned counsel for the informant and perused the material on record.

2. This is the second bail application moved on behalf of the applicant for enlarging him on bail in Case Crime No. 399 of 2022, under Sections 306, 506 I.P.C., registered at P.S.- Parasrampur, District Basti. The first Criminal Misc. Bail Application No. 57146 of 2022 has been dismissed by this Court.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the charges levelled against her and that there is no direct evidence against the applicant. He further submits that the applicant belongs to down trodden family, anyhow she continued her studies and is a very meritorious lady. Learned counsel further has drawn attention of this Court to page no. 90 of the paper book, which is the order sheets of the trial Court and has drawn attention of this Court to the order dated 06.05.2023 on which date, the date was fixed for framing of charges but till date no charge has been framed against the applicant. It is thus contended that the trial is progressing at a very slow, which is not likely to be concluded in near future. In support of his submissions, learned counsel has relied upon the judgment rendered by Hon'ble the Supreme Court in the case of **Indrani Pratim Mukerjea Vs. Central Bureau of Investigation and another** passed in **Special Leave to Appeal (Crl.) No. 1627 of 2022** to submit that prolonged incarceration of a person as an under trial is against his fundamental rights under Article 21 of the Constitution of India. It is submitted that there is no occasion now for the applicant to tamper with any witness or to flee from judicial process. Several other submissions in order to demonstrate the

falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that she is ready to cooperate with the process of law and shall faithfully make herself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon her. It is further contended by learned counsel for the applicant that the applicant is languishing in jail since 17.05.2016, having no criminal history.

4. Per contra, learned AGA as well as learned counsel for the informant have opposed the prayer for bail but admitted the facts that though the date was fixed for framing of charge, however till the date no charge has been framed.

5. After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

6. Let the applicant- **Fatima Begum** be released on bail in the aforesaid case crime number on furnishing a personal bond and two heavy sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

I. The applicant shall file an undertaking to the effect that she shall not seek any adjournment on the dates fixed for evidence and 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.

II. The applicant shall remain present before the trial court on each date fixed, either personally or through her counsel. In case of her absence, without sufficient cause, the trial court may proceed against her under Section 229-A of the Indian Penal Code.

III. In case, the applicant misuses the liberty of bail 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.

IV. 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 default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of her bail and proceed against her in accordance with law.

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

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

8. The bail application is accordingly **allowed**.

Order Date :- 30.11.2023

Mustaqeem./ S.Ali