

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38627 of 2023

Applicant :- Km. Ranu @ Shilpi Gaur

Opposite Party :- State of U.P.

Counsel for Applicant :- Alkesh Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal,J.

1. Supplementary affidavit filed today is taken on record.
2. Heard learned counsel for the applicant, learned A.G.A. and perused the record.
3. The present application under Section 439 Cr.P.C has been filed seeking bail in Case Crime No.92 of 2018 under Sections 420, 467, 468, 471, 120B IPC Police Station Friends Colony District Etawah.
4. Learned counsel for the accused-applicant submitted that the applicant is innocent and has been falsely implicated in the instant case due to ulterior motive. The applicant is only an employee in the institution run by co-accused Suraj Tomar. The applicant was working in the aforesaid institution on a meager salary. The applicant is not a beneficiary of any illicit transaction. The applicant issued identity cards to the students and demanded fees from the students only under the instructions of Director of the Institute Suraj Tomar. No specific allegations has been levelled against the present applicant. Initially the charge sheet was issued against the co-accused

Suraj Tomar. Thereafter on 25.05.2018 charge sheet was also issued against the present applicant. The present applicant challenged the aforesaid charge sheet by means of Application U/S 482 No. 24600 of 2023 which was disposed of by a Co-ordinate Bench of this Court by order dated 26.07.2023 directing the applicant to appear before the court below within three weeks and seek bail. In pursuance of the aforesaid order the applicant moved a bail application before the court below which was rejected by the learned court below on 23.08.2023. The applicant has no criminal history apart from the instant case. Co-accused Suraj Tomar who was director of the institution has already been granted bail by a Co-ordinate Bench of this Court by order dated 14.08.2018 passed in Criminal Misc. Bail Application No. 11886 of 2018. It is submitted that the role of the present applicant stands on a better footing than that of the aforesaid co-accused person however, the applicant seeks parity in relief granted to the aforesaid co-accused person. The applicant is a pregnant lady and is languishing in jail since 16.08.2023, in case she is enlarged on bail, she will not misuse the liberty of bail and will cooperate in the trial proceedings.

5. On the other hand, learned AGA has opposed the prayer for bail but could not controvert the aforesaid factual matrix.

6. Considering the facts and circumstances of the case and

taking into account that initially the charge sheet was submitted only against the co-accused Suraj Tomar who was the Director of the institute, the bail application of the applicant in the trial court was not heard on merits but the trial court was carried away by the fact that the bail application of the co-accused Suraj Tomar has already been rejected by the trial court. There can be no parity in rejection of bail each and every case should be decided on its own merits., no specific allegations has been levelled against the present applicant, the applicant issued identity cards to the students and demanded fees from the students only under the instructions of Director of the Institute Suraj Tomar, the applicant is a pregnant lady and is languishing in jail since 16.08.2023, main co-accused Suraj Tomar has already been enlarged on bail by a Co-ordinate Bench of this Court by order dated 14.08.2018 passed in Criminal Misc. Bail Application No. 11886 of 2018 and without expressing any opinion on the merit of the case, it would be appropriate to enlarge the accused-applicant on bail.

7. The bail application is allowed.

8. Let applicant-Km. Ranu @ Shilpi Gaur be released on bail in the above case crime number on her furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) 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.

(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 him under Section 229-A of the Indian Penal Code.

(iii) 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.

(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 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.

(v) The applicant shall also furnish an undertaking from the

sureties that the properties (movable/immovable) which are the basis of accepting the surety, shall not be disposed of by them till the conclusion of trial.

(vi) The applicant shall also give an undertaking to the effect that she will not change his address without prior intimation to the trial court concerned.

(Renu Agarwal,J.)

Order Date :- 16.10.2023

Nadeem