Court No. - 69
Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47937 of 2023
Applicant :- Smt Nazreen
Opposite Party :- State of U.P.
Counsel for Applicant :- Ved Prakash Mishra,Nandini Pandey
Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. List revised.

2. Heard Sri Ved Prakash Mishra and Ms. Nandini Pandey, learned counsels for the applicant and Sri Birendra Pratap Singh, learned counsel for the State and perused the material on record.

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- **Smt Nazreen**, seeking enlargement on bail during trial in connection with Case Crime No. 85 of 2023, under Sections 326-A, 323, 504 I.P.C., Police Station Kundarki, District Moradabad.

4. The first information report of the present matter was lodged on 11.04.2023 by the victim against the applicant and 03 other persons alleging therein that she was cleaning bricks wherein the accused persons came, started abusing & assaulting her and threw some substance on her. She received internal injuries and there was burning sensation on the body.

5. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that general and omnibus allegations have been levelled against the applicant and 03 accused persons. It is argued that the doctor conducting the medical examination of the victim although found burn injuries on her person but reserved the opinion regarding the nature of injury. It is argued that there is no other supplementary report available regarding the nature of injuries. The injuries received by the victim were simple in nature. It is argued that co-accused Waseem; Danish and Fateh have been granted bail by co-ordinate Benches of this Court vide orders dated 23.06.2023 and 06.07.2023 passed in Criminal Misc. Bail Application Nos. 26015 of 2023 and 26664 of 2023, the copy of the said orders is annexed as Annexure-4 to the affidavit. The applicant is a lady and is entitled to the benefit of Section 437 Cr.P.C. The applicant is involved in one other case after the present case but has no previous criminal history. The applicant is in jail since 04.10.2023.

6. *Per contra*, learned counsel for the State opposed the prayer for bail.

7. After having heard learned counsel for the parties and perusing the record, it is evident that the applicant is a lady. General and omnibus allegations have been levelled against the applicant and 03 accused persons of throwing some substance on the victim. There is no supplementary report of the victim regarding nature of injuries since at the time of medical examination the opinion regarding the nature of injuries was reserved. Co-accused Waseem, Danish and Fateh have been granted bail by co-ordinate Benches of this Court.

8. Looking to 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.

9. Let the applicant- **Smt Nazreen**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two 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 will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that she shall not seek any adjournment on the date 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.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. 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., may be issued and if 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 I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) 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 and the trial court may proceed against her under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

10. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

11. The bail application is **allowed**.

Order Date :- 8.11.2023/AS Rathore

(Samit Gopal,J.)

Digitally signed by :-
ABHISHEK SINGH RATHOR
High Court of Judicature at Allahabad