

**Court No. - 74**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 48956 of 2023

**Applicant :-** Nipun Devi

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Jalaj Kumar Tripathi

**Counsel for Opposite Party :-** G.A.

**Hon'ble Vivek Varma,J.**

1. Heard learned counsel for the applicant and Sri Prateek Tyagi, learned AGA for the State-respondent.
2. The instant bail application under Section 439 Cr.P.C. has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 281 of 2023, under Section 14 of Foreigners Act, 1946 (31), Police Station Sheeshgarh, District Bareilly, during the pendency of trial.
3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. Counsel for the applicant has placed reliance upon Section 2 of the Citizenship (Amendment) Act, 2019 and submits that the applicant is not an illegal migrant. Even as per the prosecution case, the applicant entered India at the age of 12 years and presently she is aged 45 years. The applicant is a lady and is in jail since 01.10.2023 having no criminal history and in case she is enlarged on bail, she will not misuse the said liberty.
4. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
5. Having heard counsel for the parties and having perused the record, this Court prima facie finds that the applicant is not an illegal migrant. She is living in India for the last 33 years. The applicant has no criminal antecedents. Further, the applicant is a lady and has remained confined for more than two months and after submission of the charge-sheet there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.
6. Let the applicant **Nipun Devi** involved in the aforesaid case be released on bail on her furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court

concerned subject to the conditions that she:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence;

(iii) shall not pressurize the prosecution witnesses; and,

(iv) shall not leave the country without the leave of the trial court.

7. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

**Order Date :- 2.12.2023**

Lbm/-