

**Court No. - 68**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 49670 of 2023

**Applicant :-** Smt. Monika

**Opposite Party :-** State Of U.P. And 3 Others

**Counsel for Applicant :-** Ashish Pandey

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

**Hon'ble Dr. Gautam Chowdhary, J.**

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

2. It has been argued by learned counsel for the applicant that the applicant is innocent and has been falsely implicated in the present case. He further submits that the applicant is the wife of the main accused namely, Rishipal against there is allegation of commission of rape upon the victim who has been enlarged on bail by co-ordinate Bench Court vide order dated 20.11.2023 passed in Criminal Misc. Bail Application No. 49066 of 2023, copy of which order has been produced before this Court and is taken on record. He next submits that the case of the applicant stands on better footing and therefore, the applicant is also entitled for bail. 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 he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem

fit to impose upon him. He next submits that applicant is languishing in jail since 21.07.2023 having no criminal history.

3. Per contra, learned A.G.A. as well as learned counsel for the informant have opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence. In case the applicant is released on bail he will misuse the liberty of bail, however, could not dispute the submissions of learned counsel for the applicant with regard to parity.

4. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties, nature of evidence, and all attending facts and circumstances of the case, without expressing any opinion on merits of the case, this Court is of the view that the applicant has made out a case for bail. Hence the bail application is allowed.

5. Let applicant **Smt. Monika** involved in Case Crime No.0535 of 2023 under Sections 307/109, 328 I.P.C., and Section 4/17 of POCSO Act, Police Station Vijay Nagar, District Ghaziabad be released on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to 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 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.

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

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

**Order Date :- 22.11.2023**

S.Ali