

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49595 of 2023

Applicant :- Smt. Imrana Khatun

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Kumar Pandey, Sheshadri Trivedi, Sr.
Advocate

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal, J.

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

2. This is the second bail application filed by the applicant under Section 439 Cr.P.C seeking bail in Case Crime No.289 of 2022 under Sections 420, 406, 467, 468, 471, 506, 120-B IPC Police Station Simbhawali District Hapur. The first bail application of the applicant was rejected by this Court by order dated 09.10.2023.

3. 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 widow of ex-army man. One petrol pump has been allotted to the applicant. The applicant has been running the aforesaid petrol pump. The FIR was lodged nominating one Iste Chaudhary as accused with the allegations that he was having good relations with the applicant who was running petrol pump and taking advantage of the said relationship the accused took amount of

Rs. 10 lakhs from the first informant. The co-accused Iste Chaudhary received the aforesaid amount in the account of the present applicant. The first bail application of the applicant was rejected on the ground that the applicant was a beneficiary of the above transaction. It has been argued by the learned counsel for the applicant that the amount in question has been returned by co-accused Iste Chaudhary and certificate with regard to the above payment is annexed as annexure No. CA-1 to the counter affidavit. The aforesaid certificate goes to show that the sum of Rs. 10 lakhs has been received by the informant. It is also submitted that the applicant has no criminal history apart from the instant case. Co-accused Ist Chaudhary @ Istekar has already been granted bail by co-ordinate Bench of this Court in Criminal Misc. Bail Application No.29517 of 2023, vide order dated 03.11.2023. The applicant is languishing in jail since 28.07.2022, in case she is enlarged on bail, she will not misuse the liberty of bail and will cooperate in the trial proceedings.

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

5. Considering the facts and circumstances of the case and taking into account that according to FIR co-accused Iste Chaudhary received the amount of Rs. 10 lakhs in the bank account of the present applicant, there is no allegation of fraud against the present applicant, the amount in question has been

returned to the informant, co-accused has been granted bail by a co-ordinate Bench of this Court, the applicant has no criminal history apart from the instant case, the period of incarceration of the applicant and without expressing any opinion on the merit of the case, it would be appropriate to enlarge the accused-applicant on bail.

6. The bail application is allowed.

7. Let applicant Smt. Imrana Khatun 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 :- 14.12.2023
Nadeem