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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 2432/2015**

MUNNI DEVI

..... Petitioner

Through: Mr.Garv Malhotra, Advocate

versus

STATE (THROUGH GOVT OF NCT DELHI)

..... Respondent

Through: Ms.Kusum Dhalla, APP for the State
with SI Karamvir, PS Narela
Mr.Pradeep Ahlawat, Advocate for
complainant with complainant in
person

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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19.05.2016

1. By way of this application filed under Section 439 Cr.P.C., petitioner is seeking regular bail in case FIR No.1313/2014 registered under Sections 420/468/471 IPC at PS Aman Vihar.
2. Earlier the bail application of the petitioner has been rejected by learned Metropolitan Magistrate on 13th December, 2014 and 16th May, 2015.
3. Her application has also been rejected by learned ASJ on 26th December, 2014, 10th March, 2015, 29th June, 2015 and 28th September, 2015. On 28th September, 2015 while dismissing the bail application of the petitioner, learned ASJ has passed the following order:-

“Arguments heard. This is the third bail application of applicant before the Sessions Court. Relying upon the judgments in 'Sanjay Chandra Vs. CBI, (2012) 1 SCC 40', 'State of Rajasthan Vs. Bal Chand, (1977) 4 SCC 308', 'Aslam

Desai Vs. State of Maharastra, (1992) 4 SCC 272' and 'Sanjay Bhatia Vs. State, decided by Hon'ble Delhi High Court on 26.03.2014', the request for bail is thrusted as the applicant has clean antecedent and is no more needed for custodial interrogation. The complainant alongwith many other persons is in part possession of house of the applicant since last nine months which she is using as tool of oppression by harassing and assaulting the husband and daughter of applicant at her extent. It is stated that the trial is likely to take time therefore the applicant having remained in judicial custody almost for ten months may be released.

Ld. Addl. PP has opposed the bail by contending that no fresh ground since the dismissal of last application on 29.06.2015 has been raised in the application. Even otherwise, the gravity of case debar her from the discretion of Court regarding bail.

The applicant is an accused inter-alia under Section 467 IPC which is punishable with life imprisonment. In the cited cases this provision was not in contention. She is alleged to have duped complainant of Rs. 13,75,000/- out of which nothing could be recovered during investigation, by executing false documents of immovable property and projecting them as valid and genuine despite knowing that she has nothing to do with its title. Even if there is no specific complaint of the public witnesses of threat having been extended by/on behalf of the applicant yet likelihood thereof on the release of applicant and thereby jeopardizing the case cannot be ruled out. Until the examination of complainant therefore, the applicant does not deserve the liberty of bail. Her application therefore is dismissed.

A copy of this order be given dasti to the parties.”

4. The bail application of the petitioner was lastly dismissed mainly on the ground that the examination of the complainant has not been completed. On 9th February, 2016, this Court was informed that matter was listed for

cross-examination of the complainant on 24th February, 2016.

5. On 18th April, 2016, it was further informed that cross-examination was fixed before the learned Trial Court for 30th April, 2016.

6. Today it is informed by learned counsel for the petitioner that in fact the right of the petitioner to cross-examine the complainant has already been closed and that due to some misunderstanding it was informed to this Court that the matter is listed for cross-examination of the complainant which is factually incorrect.

7. On being asked as to whether any application has been moved by the petitioner for recalling the complainant for cross-examination, Mr. Garv Malhotra, learned counsel for the petitioner submits that petitioner is being represented by another counsel before the learned Trial Court and he is not aware of the factual situation. However, the complainant who is present along with his counsel informs that till date no such application has been filed.

8. At this stage, learned counsel for the petitioner submits that application was filed before the learned Trial Court to recall the complainant for cross examination but when asked to show the copy of that application, he submits that he is not the counsel before the learned Trial Court and he is not having copy of any such application.

9. There appears to be a lot of communication gap between the two counsel representing the petitioner before the learned Trial Court and before the High Court.

10. Learned counsel for the petitioner has submitted that irrespective of the issue about the cross examination of the complainant, it is a case where petitioner is no more required for custodial interrogation. The complainant is

residing in the house of the petitioner and harassing her children. The alleged transaction was on the basis of unregistered document and FSL result on the authenticity of the said unregistered document is yet to be received. The charge has not been properly framed and there is no receipt filed by the complainant to show the payment of ₹ 13,75,000/- to the accused. It is further submitted that trial will take a long time and the petitioner who is a lady with two minor children may be released on the bail.

11. Learned ASJ has declined the prayer of the petitioner for release on bail till the examination of the complainant is complete.

12. It is for the petitioner to take necessary steps for cross-examination of the complainant and approach the learned Trial Court after that stage is over.

13. In the given facts and circumstances of the case, I do not find it to be a fit case to enlarge the petitioner on bail at this stage.

14. The application is dismissed.

PRATIBHA RANI, J.

MAY 19, 2016/‘pg’