

Court No. - 76

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39963 of 2023

Applicant :- Anita Devi And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanju Lata,Patsy David

Counsel for Opposite Party :- G.A.

Hon'ble Vikram D. Chauhan,J.

1. Learned A.G.A. for the State submits that instructions have been received and has no objection in case the bail application is heard on merits.

2. Heard Ms. Sanju Lata, Advocate, assisted by Sri Dinesh Kumar, Advocate, for the applicants, learned A.G.A. for the State and perused the record.

3. It is submitted by learned counsel for the applicants that as per the First Information Report it is alleged that the applicants along with the co-accused were spreading one particular religion and creating ill will with regard to another religion and were also offering religious conversion. Learned counsel for the applicants submits that during investigation no person has been found converted nor there is any specific details as to what was said by the applicants against another religion. Learned counsel for the applicants further submits that there is freedom to practice religion in the country which is constitutionally permitted. The applicants have no criminal history. Applicants are languishing in jail since 14.08.2023 and in case they are released on bail, they will not misuse the liberty of bail and will cooperate in the trial.

4. Learned A.G.A. for the State opposed the prayer for bail but does not dispute the fact that there are no details of the words uttered by the applicants with respect to another religion nor there is any direct evidence during investigation with regard to any forced conversion.

5. Learned AGA for the State has not brought any fact or circumstances to indicate criminal history or antecedents of the applicants which would disentitle the applicants for Bail.

6. It is not the case of the State that the applicants have not cooperated in the investigation or proceedings before the trial court.

7. The principle that Bail is a rule and Jail is an exception has been well recognised by Apex Court more specifically on the touch stone of Article 21 of the Constitution. The said principle has been reiterated by the Apex Court in **Satyendra Kumar Antil Vs. Central Bureau of Investigation and another, 2022 (10) SCC 51**. Learned AGA for the State has not shown any exceptional circumstances which would warrant denial of bail to the applicants.

8. No material, facts or circumstances has been shown by learned AGA for the State that the accused may tamper with the evidence or witnesses or the accused is of such character that his mere presence at large would intimidate the witnesses or that accused will use his liberty to subvert justice or tamper with the evidence.

9. It is settled principle of law that the object of bail is to secure the attendance of the accused at the trial. No material particulars or circumstances suggestive of the applicants fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like have been shown by learned AGA for the State.

10. Learned AGA for the State has not shown any material or circumstances that the accused/applicants are not entitled to bail in larger interests of the public or State.

11. Considering the facts and circumstances of the case, nature of offence, evidence, complicity of the accused, submissions of learned counsel for the parties and without expressing any opinion on the merits of the case, the Court is of the view that the applicants have made out a case for bail. The bail application is allowed.

12. Let the applicants-**Anita Devi** and **Divya** involved in Case Crime No. 255 of 2023, under Sections 504, 505 (2), 506 I.P.C. and Section 3/5(1) of U.P. Prohibition of Unlawful Conversion of Religion Act, 2021, Police Station Maharajganj, District Azamgarh be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:-

i. The applicants will not tamper with the evidence during the trial.

ii. The applicants will not pressurize/intimidate the prosecution witness.

iii. The applicants will appear before the trial court on the date fixed, unless personal presence is exempted and/or the applicants shall make themselves available for interrogation by a police officer as and when required.

iv. The applicants shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.

v. The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

vi. The applicants shall not leave India without the previous permission of the Court.

vii. In the event, the applicants changes residential address, the applicants shall inform the court concerned about new residential address in writing.

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

Order Date :- 20.9.2023

VMA