

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 482 of 2023

Applicant :- Raghvendra Rawat

Opposite Party :- State of U.P.

Counsel for Applicant :- Ramanuj Yadav, Kamlesh Kumar Tripathi

Counsel for Opposite Party :- G.A., Sanjay Singh Sengar

Hon'ble Sameer Jain, J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.

2. Heard Sri Kamlesh Kumar Tripathi, learned counsel for the applicant, Sri Sanjay Singh Sengar, learned counsel for the informant and Dr. S.B. Maurya, learned AGA-I for the State.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 199 of 2022, under Sections 452, 376, 323, 506 IPC, Police Station Ajnar, District Mahoba during pendency of the trial.

4. FIR of the present case was lodged against applicant on 14.10.2022 through an application under Section 156(3) Cr.P.C. dated 10.08.2022 and according to the FIR on 28.07.2022 applicant tried to outrage the modesty the informant but in spite of the best effort of the victim, her FIR was not lodged and applicant was only challaned under Section 151 Cr.P.C. and on 03.08.2022 he entered in the house of informant and committed rape with her.

5. Learned counsel for the applicant submitted that informant is Mausi in relation of the applicant and on the basis of false allegation, applicant has been made accused in the present matter. He further submits that as per allegation rape was committed by the applicant on 03.08.2022 but FIR was lodged on 14.10.2022 through an application under Section 156(3) Cr.P.C. and even application under Section 156(3) Cr.P.C. was moved on 10.08.2022 i.e. after about a week.

6. He next submits that informant of the case is major and married

lady and story narrated by her appears to be unconvincing and no reliance can be placed on such hypothetical version. He further submits that actually there is bitter enmity between both sides and in the year 2020 husband of the informant lodged FIR against applicant under Sections 435 and 427 IPC and after investigation the allegations leveled against the applicant were found false and final report was submitted.

7. He next submits that final report filed in favour of the applicant and FIR lodged by the husband of the informant dated 08.04.2020 have been annexed as Annexure-SA-1 to the supplementary affidavit dated 11.04.2023 and this fact clearly suggests that only due to enmity informant on the instigation of her husband implicated the applicant in the present matter.

8. He further submits that apart from the FIR lodged by the husband of the informant in the year 2020 and the present case applicant is not having any criminal history and in the present matter he is in jail since 05.12.2022 i.e. for almost a year.

9. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that in the FIR as well as in both the statements of the informant recorded during investigation there are allegation of rape against the applicant but both the counsels could not dispute the fact that informant of the case i.e. victim is major and married lady and earlier due to dispute between the parties applicant has been challaned under Section 151 Cr.P.C. and in the year 2020 husband of the informant also lodged FIR against the applicant.

10. I have heard learned counsel for the parties and perused the record of the case.

11. However, in the FIR and in both the statements of the victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. there is allegation of rape against the applicant but victim admittedly is major and married lady and story narrated by her does not appear to be convincing.

12. Further, from the record enmity between both the parties is apparent. Further, in the present matter applicant is in jail since 05.12.2022 i.e. for almost a year.

13. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

14. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

15. Let the applicant - **Raghvendra Rawat** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make 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 any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

16. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

17. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 23.11.2023

AK Pandey