

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 21668 of 2021

Applicant :- Saurabh Rine

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Prabhat Kumar Tiwari, Dilip Kumar Dubey

Counsel for Opposite Party :- G.A., Mohammad Mahtab Alam, Neeraj Seerotiya, Saif Naseem

Hon'ble Sameer Jain, J.

1. Sri Prabhat Kumar Tiwari, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State are present but none is present on behalf of the informant.

2. The instant bail application has been filed on behalf of the applicant Saurabh Rine with a prayer to release him on bail in Case Crime No. 655 of 2020, under Sections 376-D, 328, 323, 506 IPC, Section 3(2)(V) of SC/ST Act and section 3/4 POCSO Act, Police Station Mauranipur, District- Jhansi, during pendency of trial.

3. The FIR of the present case was lodged against co-accused Amar Rajput and two unknown persons and according to the FIR, on 7/12/2020, when daughter of the informant had gone from her house at about 3:00 PM in the noon, gang rape was committed with her and when the informant arrived at the hospital, the victim informed him that co-accused Amar Rajput and two unknown persons after administering some intoxicated substance to her, committed rape with her. It is further mentioned that age of the daughter of the informant is 16 years six months.

4. Learned counsel for the applicant submits that applicant was neither named in the FIR nor in the statements of the victim recorded under sections 161 Cr.P.C. and 164 Cr.P.C. and complicity of the applicant came into light in the present matter through the statement of co-accused and except the statement of the co-accused, there is no other evidence against the applicant on record. It is further submitted that co-accused Mohammad Tajju @ Dhoni has already been released on bail by Co-ordinate Bench of this Court vide order dated 27.03.2023 passed in Bail Application

No. 24488 of 2021. Copy of the said order is taken on record. It is further submitted that applicant is not having any previous criminal history and is in jail since 9/12/2020.

5. *Per Contra*, Learned A.G.A. opposed the prayer for bail but could not dispute the argument on facts advanced by the learned counsel for the applicant.

6. I have heard both the parties and peruse the record

7. Considering the fact that applicant was neither named in the fire nor the victim disclosed his name either in her statement recorded under sections 161 Cr.PC or 164 Cr.PC and only evidence against the applicant is the statement of co-accused and the applicant is in jail for more than two and a half years, in my considered view, the applicant is entitled to be released on bail.

8. Let the applicant Saurabh Rine 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.

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

10. 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 :- 13.10.2023

Madhurima