

Court No. - 76

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 18893 of 2023

Applicant :- Monu Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Bharat Singh, Ashish Pandey, Nikil Pathak

Counsel for Opposite Party :- G.A., Dharm Vir Jaiswal, Harsh Vikram

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

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- Monu Singh, seeking enlargement on bail during trial in connection with Case Crime No. 58 of 2023, under section 313 I.P.C., Police Station Chandausi, District Sambhal.

4. It is submitted by learned counsel for the applicant that as per F.I.R. applicant is husband and the informant is his wife. There was a dispute between the husband and wife and on 25.01.2023 the accused persons have assaulted and had thereafter thrown the wife out of the house. Subsequently, the accused persons went to the house of the parents of the informant where also they have assaulted the victim/wife. As a result of the same, miscarriage has taken place as she was pregnant. Learned counsel for the applicant has drawn the attention of this Court to the injury report which is at page 35 of the paper book where injury nos. 1, 2 and 3 are simple in nature and injury no. 4 was sent for expert opinion. The ultrasound of the victim was held where the miscarriage was confirmed. Dr. Digvijay Singh Chauhan has given statement that there was incomplete abortion and supplementary report was prepared by Dr. Khilendra. Statement has been filed alongwith counter affidavit where Dr. Khilendra has stated that miscarriage has taken place on account of grievous injury. Learned counsel for the applicant submits that there was a contradiction in the F.I.R. version and the statement of the victim recorded under section 161

Cr.P.C. As per F.I.R., the abortion has taken place on account of assault made by the accused persons on 26.01.2023, whereas, as per statement under section 161 Cr.P.C. the victim has stated that miscarriage has taken place on 25.01.2023 when the accused persons have assaulted. Learned counsel for the applicant on aforesaid basis submitted that since there is a contradiction as to when the applicant has assaulted which has resulted in miscarriage. The prosecution story is doubtful. Learned counsel for the applicant further submits that the applicant has no previous criminal history except for the previous case under the Dowry Prohibition Act. He submits that the dispute is largely between the husband and wife arisen out of marriage.

5. Learned A.G.A. and learned counsel for the informant Sri Harsh Vikram, Advocate, have opposed the bail application. Learned counsel for the informant submitted that as per medical evidence the abortion has taken place on account of grievous injury. The same is supported by the statement of the doctor who had medically examined the victim. The contradiction of the date in the F.I.R. and statement under section 161 Cr.P.C. is of no consequences as in both it has been specifically stated that applicant assaulted the victim as a result of the same the miscarriage has taken place.

6. It is to be seen that in the present case the allegation against the applicant is that the applicant has assaulted the victim who is his wife. As a result of the same, miscarriage has taken place. The medical evidence supplementary report indicates that the miscarriage has taken place and doctor Digvijay Singh Chauhan and doctor Khilendra have confirmed that the abortion has taken place on account of grievous injury sustained by the wife of the applicant.

7. On a pointed query being made from the learned counsel for the applicant as to how the injuries have been sustained and whether the applicant had taken his wife to the hospital no satisfactory reply has been given by learned counsel for the applicant. Insofar as the discrepancy of the date when the incident has taken place is concerned at this stage the same cannot be gone into.

8. Looking to the facts and circumstances of the case, I do not find it a fit case for bail, hence, the bail application is rejected.

Order Date :- 2.11.2023

K.K. Maurya