

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 20237 of 2023

Applicant :- Alok Sharma

Opposite Party :- State of U.P.

Counsel for Applicant :- Anil Kumar Dubey, Chandra Bhan Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Umesh Kumar, Advocate holding brief of Sri C.B. Dubey, learned counsel for the applicant and Sri Ghanshyam Mishra, learned Brief Holder for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 1198 of 2020, under Sections 498-A, 376, 354-B, 506 IPC & Section 3/4 D.P. Act, Police Station Khurja Nagar, District Bulandshahar, during pendency of the trial in the court below.

3. Learned counsel for the applicant submitted that this is the second bail application filed on behalf of the applicant. The first bail application of the applicant has been dismissed on 23.11.2021 by the co-ordinate Bench of this Court and instant second bail application is being pressed on the ground that applicant is in jail in the present matter since 2.7.2021 i.e. for almost two and half years but till date, trial of the case could not be completed.

4. He further submitted that victim of the case is wife of younger brother of the applicant and on the basis of false allegation of rape applicant has been made accused in the present matter.

5. He further submitted that there is also allegation of torture and demand of dowry against the applicant and therefore, it appears that due to some matrimonial dispute, being elder brother of the husband of the victim, applicant has been made accused in the present matter.

6. He further submitted that applicant is having no criminal history apart from the present case.

7. Per contra, learned AGA opposed the prayer for bail but could

not dispute the fact that applicant is jeth of the informant i.e. victim and matrimonial dispute is pending between both the sides and in the present matter applicant is in jail for last almost two and half years.

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

9. Although, this is second bail application filed on the applicant and the first bail application of the applicant has already been dismissed on merit by the co-ordinate Bench of this Court vide order dated 23.11.2021 but it appears that applicant is jeth of the victim and he is in jail in the present matter since 2.7.2021 i.e. for almost two and half years.

10. From the record, it also reflects that matrimonial dispute is pending between both the sides.

11. Therefore, considering the facts and circumstances of the case, discussed above, particularly, the long incarceration of the applicant of almost two and half years, in my view, applicant is entitled to be released on bail.

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

13. Let the applicant-**Alok Sharma**, 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.

14. 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.

15. 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 :- 11.12.2023

Ankita