

**Court No. - 70**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 21278 of 2023

**Applicant :-** Ved Prakash @ Dil Bahar @ Dil Bahadur

**Opposite Party :-** State Of U.P. And 3 Others

**Counsel for Applicant :-** Vivek Kumar Yadav, Bashisth Narain Pandey, Dan Bahadur

**Counsel for Opposite Party :-** G.A., Shivam Verma

**Hon'ble Sameer Jain, J.**

1. None appeared on behalf of the informant even in revised call, however, learned AGA for the State is present.
2. Heard Sri Dan Bahadur, learned counsel for the applicant and Sri Brijesh Pratap Singh, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 449 of 2020, under Sections 450, 376, 354-B, 506 IPC & 7/8 POCSO Act, Police Station- Uttraon, District- Prayagraj/ Allahabad, during pendency of the trial in the court below.
4. FIR of the present case was lodged against applicant on 14.11.2020 and according to the FIR, on 08.11.2020 applicant after entering in the house of the informant committed rape upon her.
5. Learned counsel for the applicant submitted that on the basis of false allegation, applicant has been made accused in the present matter. He further submits although, incident is said to have taken place on 08.11.2020 but FIR was lodged on 14.11.2020 i.e. after about a week and this delay in lodging the FIR shows that after about a week, a false story has been cooked up by the informant and she implicated the applicant in the present matter. He further submitted that admittedly informant i.e. victim 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 version.
6. He further submitted that actually a civil suit is pending between both the sides and in the year 2020 even before lodgement of the FIR of the present case, aunt of the applicant filed a civil suit for permanent injunction against the mother of the informant and copy

of the same has been annexed alongwith the instant bail application and only due to this enmity, applicant was made accused in the present matter.

7. He further submitted that however, FIR was lodged in the year 2020 but applicant is poor labour and for his livelihood he had to go to District Meerut and due to that reason, he could not aware about the pendency of the instant matter and when he came to know about this fact then he appeared before the court concerned on 03.04.2023 and since then he is in jail.

8. He further submitted that applicant is not having any previous criminal history.

9. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

11. However, it appears that FIR of the present case was lodged in the year 2020 but applicant could only be appeared before the trial court in the month of April, 2023 i.e. after more than two and half years but in the supplementary affidavit, applicant explained the reason of his abscondence.

12. Further, however, there is allegation of rape against the applicant in the FIR as well as in both the statements of the victim recorded during investigation but admittedly victim is major and married lady and story narrated by her does not appear to be convincing.

13. Further, from the record, enmity between both the sides is apparent and applicant is in jail for last more than six months.

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

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

16. Let the applicant- **Ved Prakash @ Dil Bahar @ Dil Bahadur** 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.

17. 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.

18. 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 :- 8.12.2023**

KK Patel