

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 32099 of 2021

Applicant :- Jitendra @ Munesh

Opposite Party :- State of U.P.

Counsel for Applicant :- Akhilesh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Akhilesh, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 627 of 2019, S.T. No. 09 of 2020, under Sections 420, 480, 376, 511, 354 IPC, Police Station Banna Devi, District Aligarh during pendency of the trial.

3. FIR of the present case was lodged on 29.09.2019 against applicant and according to the FIR under false promise to provide job applicant duped Rs. 10,000/- from the informant and also tried to commit rape upon her. It is further mentioned in the FIR that applicant also committed theft of Rs. 30,000/- and golden chain of the informant.

4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and only with regard to the service some dispute arose between applicant and informant and thereafter informant lodged FIR of the present case. He further submits that neither in the FIR nor in her both the statements of victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. there is any allegation of rape and only allegation against the applicant is of attempt to commit rape and even story narrated by the victim appears to be quite improbable.

5. He further submits that applicant is having criminal history of two cases but both the cases were of sections 420, 406 IPC and his criminal history has been explained in the supplementary affidavit and in both cases he is on bail. He further submits that applicant in the present matter is in jail since 30.09.2019 i.e. for last more than four years.

6. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.
7. I have heard learned counsel for the parties and perused the record of the case.
8. However, it appears that applicant is also having criminal history of two cases but both the cases were of Sections 420, 406 IPC and criminal history of the applicant has been explained in the supplementary affidavit and in both the cases he is on bail.
9. Further, neither in the FIR nor in both the statements of the victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. there is any allegation of rape and it appears that some dispute with regard to service arose between both of them and thereafter FIR of the present case was lodged.
10. Further, applicant in the present matter is in jail since 30.09.2019 i.e. for last more than four years.
11. Therefore, considering the facts and circumstances of the case, particularly the long incarceration of the applicant, 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 - **Jitendra @ Munesh** 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 :- 12.12.2023

AK Pandey