

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 30772 of 2023

Applicant :- Chandra Prakash

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

Counsel for Applicant :- Ehtesham Afsar Khan

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia,J.

1. Counter Affidavit filed by the State is taken on record.
2. Heard learned counsel for the applicant, learned AGA and perused the record. No one appears for the informant / victim despite notice.
3. The accused-applicant seeks bail in Case Crime No.235 of 2023 under section 377 IPC and section 5(L), 5(M)/6 of the POCSO Act, P.S. Nawabganj, District Bareilly.
4. The FIR in question was lodged alleging that on 17.05.2023 at about 10:00 pm, the offence was committed on the brother of the informant and he had seen the commission of the offence. Subsequently, in the statement of the victim recorded under section 164 Cr.P.C., the victim stated that the offence was committed at the residence of the applicant where he also had food.
5. The counsel for the applicant draws my attention to the medical report, which indicates abrasion of 0.25 cm x 0.25 cm, however, no lacerated wound or any other injury was found on the body of the victim. In the light of the said, the submission of the counsel for the applicant is that there is a stark contrast in between the allegations levelled in the FIR as well as in the statement under section 164 Cr.P.C. in respect of place of occurrence, the time of occurrence and the whole story thus is false narrative created against the applicant.
6. No one appears for the informant despite notice.
7. In the counter affidavit, the State has admitted that no other injury was found on the body of the victim.
8. Considering the huge inconsistencies in the version of the FIR and the version given under section 164 Cr.P.C. coupled with the fact that there is no prima-facie corroboration of the offence with

the injury report on record and also coupled with the fact that the applicant has no criminal history and is in custody since 21.05.2023 is entitled to be enlarged on bail. Thus the bail application is allowed.

9. Let the applicant Chandra Prakash be released on bail in aforesaid first information report number subject to his furnishing a personal bond and two reliable sureties of Rs.25000/- (Twenty Five Thousand) each of the like amount to the satisfaction of the court concerned with the following conditions:

- (a) The applicant shall execute a bond to undertake to attend the hearings;
- (b) The applicant shall not commit any offence similar to the offence of which he is accused or suspected of the commission; and
- (c) The applicant shall not directly or indirectly make any 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 to any police officer or tamper with the evidence.

Order Date :- 31.10.2023

VNP/-