

Court No. - 85

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 31605 of 2023

Applicant :- Vikas Paswan

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

Counsel for Applicant :- Vinay Tripathi, Anjali Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mayank Kumar Jain, J.

List revised.

As per office report, notice upon the opposite party no.2/informant has been served personally but no one appears on his behalf.

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

The present second bail application has been filed on behalf of applicant in Case Crime No. 401 of 2021, under Sections 376, 323, 504, 506 of IPC and Section 5 (M)/6 POCSO Act, Police Station Chauri-Chaura, District Gorakhpur with the prayer to enlarge the applicant on bail. The first bail application of the applicant was dismissed for want of prosecution by this Court vide order dated 17.01.2023.

As per the allegation of F.I.R. on 15.10.2021 at around 4 pm when the idol of Durga ji were being taken for immersion, the applicant took away the daughter of the informant aged around 6 years and committed rape with her in the vacant house of one Vansraj. The daughter of the informant came to home, she was crying. She narrated the incident to her. Blood was coming out from her private part and her clothes were drenched in blood .

It has been argued by learned counsel for the applicant that applicant is innocent and he has been falsely implicated in the present case. It is further submitted that there are material contradictions with regard to the date of incident. As per the allegation of F.I.R. incident took place on 15.10.2021 while in the statement of some witnesses the date of occurrence is mentioned as 02.10.2021. It is further submitted that there is no eye witness of incident who can corroborate the version of prosecution. It is

further submitted that there is material contradictions with respect to the place of occurrence. It is further submitted that Investigating Officer has not recorded the statement of any witness from the family of Vansraj. Only family members and interested person have been nominated as witness of alleged incident. It is further submitted that there is no substantial progress in the trial and applicant is languishing in jail since 17.10.2021 having no criminal history and that in case he is released on bail, he will not misuse the liberty of bail and will cooperate in trial.

Per contra, the learned Additional Government Advocate has vehemently opposed the prayer for grant of bail by contending that as per the medical report of the victim, her age was determined to be six years. Medical report of the victim corroborate the version of prosecution. Victim in her statement recorded under Section 161 and 164 Cr.P.C. has categorically corroborated the version of prosecution and stated that applicant committed rape with her. Hence, applicant is not entitled to be released on bail.

Considering the rival submissions of learned counsel for the parties, nature of allegations, gravity of offence, I do not find it a fit case for bail. Hence, the bail application is hereby ***rejected***.

Trial court is directed to expedite the trial and all endeavours be made to conclude the trial expeditiously preferably within a period of one year after receipt of the certified copy of this order without granting unnecessary adjournment to either of the parties subject to full co-operation by the applicant.

Any observation made above shall not be treated as any finding on the merits of the case and shall not prejudice the trial in any manner.

Order Date :- 28.10.2023

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