

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41891 of 2021

Applicant :- Rashid

Opposite Party :- State of U.P.

Counsel for Applicant :- Shivajee Singh Sisodiya, Krishna Kumar Shukla, Pavan Kumar Kushwaha, Thakur Prasad Dubey

Counsel for Opposite Party :- G.A., Abhinab Mishra

Hon'ble Sameer Jain, J.

1. Heard Sri Krishna Kumar Shukla, learned counsel for the applicant; Sri Abhinab Mishra, learned counsel for the informant and Sri Manoj Kumar Singh, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 207 of 2021, under Sections 376, 457, 506 IPC, Police Station Fatehganj West, District Bareilly, during pendency of the trial in the court below.

3. FIR of the present case was lodged against the applicant and one unknown person and according to the FIR on 14.6.2021, applicant and his unknown associates entered in the house of the informant in the absence of her husband and both committed rape with her.

4. It is further mentioned in the FIR that after hearing the shriek of the informant villagers arrived and they although caught the applicant but applicant managed to escape.

5. Learned counsel for the applicant submitted that the entire allegations made against the applicant are totally false and although as per allegation, applicant committed rape on 14.6.2021 but FIR was lodged on 8.7.2021 i.e. after three weeks.

6. He further submitted that admittedly victim is married and major lady and from her both the statements, it appears that she was consenting party and when she was alone with the applicant then in the meantime, villagers arrived and thereafter under the societal pressure, she lodged FIR of the present case after three weeks.

7. He further submitted that applicant is having no criminal

history and he is in jail in the present matter since 9.8.2021 i.e. for more than two years.

8. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that there is allegation of rape against the applicant in the FIR as well as in both the statements of the victim recorded under sections 161 and 164 Cr.P.C. but both the counsels could not dispute the fact that the informant is married and major lady and FIR of the present case was lodged after three weeks and applicant is in jail for more than two years.

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

10. However, there is allegation of rape against the applicant in the FIR as well as in both the statements of the victim recorded under sections 161 and 164 Cr.P.C. but FIR of the present case was lodged after three weeks and victim is major and married lady.

11. Further, applicant is having no criminal history to his credit and he is in jail in the present matter since 1st August, 2021 i.e. for more than two years.

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

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

14. Let the applicant-**Rashid**, 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.

15. 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.

16. 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 :- 30.10.2023

Ankita