

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8522 of 2023

Appellant :- Anuj Kumar Yadav

Respondent :- State of U.P. and Another

Counsel for Appellant :- Jitendra Rpasad Kushwaha, Nikhil Shukla

Counsel for Respondent :- G.A., Ram Pyare, Sudhir Kumar Pandey

Hon'ble Mayank Kumar Jain, J.

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

The present bail application has been filed on behalf of applicant in Case Crime No. 218 of 2022, under Sections 354-A, 354-B, 294, 323, 511, 376, 504, 506, 427 of IPC and Section 3(1)(Da), 3(1)(Dha) and 3(2)(V-A) of SC/ST Act, Police Station Vindhyanchal, District Mirzapur with the prayer to enlarge the applicant on bail.

There is an allegation against the applicant that on 10.11.2022 at around 4.00 pm when the informant was returning from her college the applicant who was ambushed, dragged the informant. He hit with his leg and shoes and made her fell down and committed obscene activities. The applicant torn her cloths and attempted to rape with her. On raising alarm two persons came there, the appellant ran away. When the prosecutrix along with her brother went to make a complaint to the house of the applicant she was addressed with caste related words and was also threatened to life. Her brother was attacked with Hasiya and he sustained injuries.

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 submitted that as per the allegation of FIR the brother of the informant received injuries but no medical is brought on record. Two witnesses namely Ram Achal and Rammo Devi are recorded but who are the 'Mama' and 'Mami' of the informant, therefore, they are interested witnesses. It is submitted that no offence under Section 376 of IPC is made out. It is further

submitted that applicant is languishing in jail since 02.08.2023 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 opposed the prayer for grant of bail and argued that the allegations made in the FIR are serious in nature. The victim in her statement under Sections 161 and 164 Cr.P.C. has consistently corroborated the act done by the applicant. After investigation charge sheet has been filed against the applicant, therefore, he is not entitled for bail.

Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties, nature of evidence and gravity of the offence, without expressing any opinion on merits of the case, the Court is of the view that the applicant is not entitled for the bail, therefore, the bail application is ***rejected***.

Any observation made above shall not be treated as any finding on the merit and shall not prejudice the trial.

However, the trial court is directed to record the statement of victim within three months from the date of production of certified copy of this order.

Order Date :- 31.10.2023

Mohit