

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39249 of 2023

Applicant :- Harsh Singh @ Raja

Opposite Party :- State of U.P.

Counsel for Applicant :- Amrendra Pratap Singh, Shashi Prabha Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Amrendra Pratap Singh, learned counsel for the applicant and Sri Shatrughan Yadav, learned A.G.A. for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No.0094 of 2019, under Sections 376, 384 IPC, Police Station Narhi, District Ballia during pendency of the trial.
4. FIR of the present case was lodged on 05.06.2019 against the applicant and co-accused Satya Prakash Rai and one unknown person and according to the FIR on 28.04.2019, co-accused Satya Prakash Rai committed rape with the informant in a car and the applicant was also sitting in the same car and as per the allegations, he held the hands of the informant.
5. Learned counsel for the applicant submits that FIR of the present case was lodged after more than one month and only being friend of co-accused Satya Prakash Rai, applicant has been made accused in the present case. It is further submitted that there is no allegation of rape against the applicant and it appears that principal accused in the present case is co-accused Satya Prakash Rai.
6. He further submits that admittedly victim i.e. informant of the case is major and married lady and the story narrated by her appears to be quite improbable and, therefore, after investigation, final report was submitted but on the protest petition, final report filed by the police was dismissed and applicant was summoned in the present matter.
7. It is further submitted that although the applicant was summoned by the court concerned on 17.11.2020 but he could not become aware about summoning order and when he came to know

about this fact, he surrendered before the court concerned on 15.06.2023. He further submits that applicant is not having any previous criminal history and he is in jail since 15.06.2023.

8. Per contra, learned A.G.A. although opposed the prayer for bail but he could not dispute the argument on facts as advanced by learned counsel for the applicant.

9. I have heard both the parties and perused the record of the case.

10. Considering the fact that the FIR was lodged after more than a month and there was no allegation of rape against the applicant and during investigation, final report was submitted in favour of the applicant and he was summoned on the basis of protest petition, in my view, the applicant is entitled to be enlarged on bail.

11. Let the applicant **Harsh Singh @ Raja** 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.

12. In case of breach of any of the above conditions, the prosecution will be at liberty to move an application before this Court for cancellation of bail of the applicant.

13. 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 :- 16.10.2023/Madhurima