

Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 37509 of 2023

Applicant :- Kuldeep

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

Counsel for Applicant :- Vijay Bahadur Shivhare

Counsel for Opposite Party :- G.A.,Gunjan Sharma,Sandeep Mishra

Hon'ble Raj Beer Singh,J.

1. Heard learned counsel for the applicant-accused, learned counsel for the informant, Ms Gunjan Sharma, learned counsel for High Court Legal Services Committee, learned A.G.A. for the State and perused the record.

2. The present second bail application has been filed by the applicant-accused in Case Crime No. 234 of 2021, under Sections 452, 354(Ka), 326 (Ka), 504 and 506 IPC and Section 10 of Protection of Children From Sexual Offences Act, P.S. Kurara, District Hamirpur with the prayer to enlarge the applicant-accused on bail. The first bail application of applicant-accused was rejected by this Court vide order dated 1.4.2022, passed in Criminal Misc. Bail Application No.51455 of 2021.

3. It has been argued by the learned counsel for the applicant that applicant is innocent and he has been falsely implicated in this case. In the first information report, it has been alleged that the applicant, having a country made pistol in his hand, trespassed into house of victim girl at 11.00 PM and did obscene activities with her and that he has also caused injuries to her with blade. In her statement, recorded under Section 164 Cr.P.C., victim girl has changed her version and it has been pointed out that in her statement under Section 164 Cr.PC, victim has not stated that applicant was having any country made pistol and she has also stated that she came to know about alleged injury at her cheek

after seeing in light and she has also stated that her clothes have become blood stained. Referring to statement of victim girl, recorded under Section 164 Cr.P.C., it has been submitted that entirely a new version has been developed by the victim in her statement and thus, her version is not reliable. Referring to medical examination report, it is submitted by the learned counsel that two lacerated wounds of nearly same size have been shown on the right cheek of victim girl and that these injuries are not possible by blade and the margins of injuries was not clear. In view of attending facts and circumstances of the case, it appears that victim girl has sustained these injuries as she has fallen at some other object in scuffle.

4. It has been further submitted that the first bail application of applicant-accused was rejected by this Court vide order dated 01.04.2022 and after that the statement of victim girl as well as her family members have already been recorded before the trial court, wherein, they did not support the prosecution version and turned hostile. Referring to statement of victim/P.W.1, recorded before the trial court, it was pointed out that she has denied the involvement of the applicant in the alleged incident. Similarly the P.W.2, who is father of victim, and P.W.3, who is sister of victim, have also not supported the prosecution version. It has been submitted that the applicant-accused is languishing in jail since 05.10.2021, having no criminal history. It was further submitted that in case the applicant-accused is released on bail, he will not misuse the liberty of bail and will co-operate in trial.

5. Learned counsel for the informant, learned counsel for High Court Legal Services Committee and learned A.G.A. for the State have opposed the prayer for bail. However, it could not be disputed that before the trial court victim girl as well as her father

and sister have not supported the prosecution version and turned hostile.

6. Considering the submissions of learned counsel for the parties, nature of allegations, period of custody and all attending facts and circumstances of the case, without expressing any opinion on the merits of the case, the Court is of the view that a case for bail is made out. Hence, the bail application is hereby **allowed**.

7. Let the applicant-accused Kuldeep involved in aforesaid crime be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions:

(i) The applicant-accused shall not tamper with the evidence during the trial.

(ii) The applicant-accused shall not pressurize/ intimidate the prosecution witness.

(iii) The applicant-accused shall appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The applicant-accused shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

(v) The applicant-accused 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 them from disclosing such facts to the Court or to any police officer or tamper with the evidence.

8. In case of breach of any of the above condition, the Court concerned shall be at liberty to cancel bail of applicant-accused in accordance with law.

Order Date :- 26.10.2023

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