

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38950 of 2023

Applicant :- Bihari Lal

Opposite Party :- State of U.P.

Counsel for Applicant :- Ankit Tiwari, Anurag Yadav, Lalit Kumar Tripathi, Mahendra Pratap

Counsel for Opposite Party :- G.A., Ganesh Pandey, Shiksha Singh Gautam

Hon'ble Samit Gopal, J.

1. List revised.

2. Heard Sri Mahendra Pratap, learned counsel for the applicant, Sri Shiksha Singh Gautam, learned counsel for the first informant and Sri Ajay Singh, learned AGA-I for the State and perused the material on record.

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant **Bihari Lal**, seeking enlargement on bail during trial in connection with Case Crime No. 0165 of 2023, under Sections 376, 354, 328, 504, 506 IPC and Section 67 I.T. Act, registered at P.S. Manjhanpur, District Kaushambi.

4. The FIR of the matter was lodged on 12.05.2023 by Sharda Prasad against the applicant alleging therein that Bihari Lal the applicant is his son-in-law. His second daughter who is the victim of the matter used to go to the house of the applicant, the applicant used to sent obscene messages and pictures to her through his mobile. He used to threaten and abuse her on calls. On 08.05.2023 the first informant got his daughter married but the applicant threatened them to break up the marriage of his daughter. The FIR was lodged under Sections 504, 506 IPC and Section 67 I.T. Act.

5. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the applicant is brother-in-law/jeeja of the victim. It is argued that the victim was opined by the CMO concerned to be above 30 years and below 35 years of age. It is argued that she is a married woman. It is further argued that the victim in her statement

recorded under Section 161 Cr.P.C. stated of her going to the house of the applicant at the time of delivery of her sister where she was given some intoxicating substance and then her brother-in-law did immoral acts with her and made video and used to blackmail her on the basis of the said video. It is argued that in the statement recorded under Section 164 Cr.P.C. of the victim, she does not state of any immoral act being committed by the applicant but states that after being given some intoxicating substance, an obscene video was captured and on the basis of the said video, the applicant used to threaten her. It is argued that subsequently the second statement of the victim was recorded under Section 161 Cr.P.C. in which to a specific question by the police, she stated that the applicant committed rape upon her after giving her some intoxicating medicine and made a video also and made it viral. It is argued that the implication of the applicant in the matter is totally false. It is further argued that the victim is a major lady. She was not having good relations with her husband and as such she got attracted towards the applicant and told him that she wants to live with him and when the applicant refused to meet her demand, she became annoyed and implicated him in the present case. It is argued that there are contradictions in the statements of the victim recorded during investigation. It is further argued that during investigation, the matter was converted into a case under Sections 376, 354, 328, 504, 506 IPC and Section 67 I.T. Act. He further argued that the applicant has no criminal history as stated in para 23 of the affidavit and is in jail since 13.05.2023.

6. Per contra, learned counsel for the first informant and learned counsel for the State opposed the prayer for bail and argued that the applicant is the brother-in-law/jeeja of the victim and the son-in-law of the first informant. He is named in the FIR and in the statements of the victim recorded during investigation. It is argued that the applicant had even made some objectionable videos of the victim and made it viral and since she had got married, he was trying to get the said marriage broken. It is argued that messages sent by the applicant to the informant are also on record and was part of investigation. The obscene video of the victim was sent from the mobile phone of the applicant. It is argued that charge sheet has been submitted against the applicant and as such the bail application of the applicant be rejected.

7. After having heard learned counsels for the parties and perusing the records, it is evident that the applicant is the son-in-law of the first informant and brother-in-law/jeeja of the victim. He is named in the FIR and in the statements of the victim recorded during

investigation. The applicant had sent obscene videos to the victim from his mobile. He had extended threats on the basis of the said video to the victim. His conduct is very bad. There is no convincing reason stated for false implication. I do not find it a fit case for bail.

8. Considering the totality of the case in particular, nature of evidence available on record, I am not inclined to release the applicant on bail.

9. The bail application is, accordingly, ***rejected***.

Order Date :- 24.11.2023

M. ARIF

(Samit Gopal, J.)