

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39452 of 2023

Applicant :- Arais

Opposite Party :- State of U.P.

Counsel for Applicant :- Syed Mohammad Abbas Abdy

Counsel for Opposite Party :- G.A., Santosh Kumar Tiwari

Hon'ble Umesh Chandra Sharma,J.

1. Heard Syed Mohammad Abbas Abdy, learned counsel for the applicant, learned AGA for the State, Sri Santosh Kumar Tiwari, learned counsel for the informant who has filed counter affidavit which is taken on record and perused the record.

2. The instant bail application has been filed with a prayer to enlarge the applicant on bail in Case Crime No.178 of 2023, under Sections 323, 504, 506, 377 IPC, Police Station Chharra, District Aligarh, during the pendency of trial.

3. Learned counsel for the applicants submits that the applicant is innocent and has been falsely implicated in the present case. It is further contended that there is no medical evidence against the applicant for the offence under Section 377 IPC except the oral version of the victim; earlier also the victim had levelled such allegation which was nullified by the investigating officer and no medical report in this regard was submitted. Similarly, at this juncture in this case no medical evidence has been produced to prima facie establish that an offence under Section 377 IPC was committed by the applicant. It is also contended that the informant is habitual in leveling such false allegations against her husband as she does not want to live peacefully with him. There is no previous criminal history against the applicant. He is a peace loving and law abiding citizen. There is no likelihood of his abscondence or tampering with the evidence. The applicant is in jail since 16.07.2023. In case the applicant is enlarged on bail, he will not misuse the said liberty.

4. Learned AGA and learned counsel for the informant have opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions advanced by the learned counsel for the applicant from the record.

5. Having regard to the facts, circumstances and the submissions made but without commenting on merits of the

case, this Court is of opinion that the applicant is entitled to be enlarged on bail. Accordingly, the bail application is allowed.

6. Let the applicant - **Arais**, involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence;

(iii) shall not pressurize the prosecution witnesses.

(iv) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 CrPC may be issued and if applicant fails to appear before the Court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him in accordance with law

7. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 9.11.2023

Shahroz