

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41612 of 2023

Applicant :- Vishnu

Opposite Party :- State of U.P.

Counsel for Applicant :- Chandra Bhushan Prasad, Firoz Ahmad Khan

Counsel for Opposite Party :- G.A., Anita Singh, Prem Babu Verma

Hon'ble Umesh Chandra Sharma, J.

1. Supplementary affidavit filed on behalf of the applicant is taken on record.
2. Heard Sri Chandra Bhushan Prasad, learned counsel for the applicant, learned AGA for the State, Ms. Anita Singh, learned counsel for the informant and perused the record.
3. By means of the present bail application, the applicant seeks bail in Case Crime No.210 of 2023, under Sections 366, 506 IPC, Police Station Jagdishpura, District Agra, during the pendency of trial.
4. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated in the present case. He is a peace loving and law abiding citizen. It is further contended that the victim was aged about 21 years who has accepted in her statement that the applicant is her husband and they were living as husband and wife. Earlier the victim and the accused had also filed a writ petition i.e. Writ-C No.14934 of 2023 (Smt. Kiran and others Vs. State of UP) for which the victim accompanying the accused came to Allahabad and deposed in her affidavit that she

voluntarily left her family and also when the victim was recovered she stated that she had voluntarily left her house. In the statement under Section 161 CrPC she has stated against the accused and in favour of the prosecution that accused had taken her to Allahabad where he performed court marriage forcefully and had come back to Agra and kept her in a rented house and used to beat her and also threaten to kill her. When she knew about lodging of the FIR, she voluntarily went to the police station. The witness (victim) has accepted herself to be 22 years old at the time of recording of statement. It is also contended by the counsel for the applicant that the applicant travelled from Agra to Allahabad and visited several places but she never whistled or made any alarm anywhere. It is further contended that it is very much clear from the record that the victim was not tortured by the applicant physically or mentally. There is criminal history of four cases against the applicant which has been explained in paragraph-4 of the supplementary affidavit from perusal of which it transpires that in two cases the applicant was not named in the FIR and no charge-sheet has been submitted against him and in rest two cases he has been enlarged on bail. There is no likelihood of his abscondence or tampering with the evidence. The applicant is languishing in jail since 25.05.2023. In case the applicant is released on bail, he will not misuse the said liberty.

5. Learned AGA has opposed the bail application and contends that as per FIR and the statement of the informant the accused has already performed two marriages prior to this incident which is contradicted by the counsel for the applicant who has stated that the averment with regard to two other marriages of the applicant made by the learned AGA has not been accepted by the applicant and also no evidence has been produced in this regard by the

prosecution prior to this incident.

6. Having regard to the facts, circumstances of the case and the submissions made but without commenting on the merits of the case, this Court is of opinion that the applicant has made out of case for bail. Accordingly, the bail application is allowed.

7. Let the applicant - Vishnu, involved in the aforesaid case crime 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.

8. 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 :- 31.10.2023

Shahroz