

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40034 of 2023

Applicant :- Kaalicharan Alias Dhelayi Baba

Opposite Party :- State of U.P.

Counsel for Applicant :- Yogesh Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. List revised.

2. Heard Sri Yogesh Kumar Singh, learned counsel for the applicant, Sri Bare Lal Bind learned AGA 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 Kaalicharan Alias Dhelayi Baba, seeking enlargement on bail during trial in connection with Case Crime No. 54 of 2023, under Sections 420, 379, 376, 504, 506 I.P.C. registered at P.S. Madihan, District Mirzapur.

4. The F.I.R. of the matter was lodged on 27.5.2023 by the victim herself against the applicant alleging therein that the applicant was a baba practicing occult science who had stated that her family is overshadowed by evil shadows due to which prosperity has stopped. He further stated that there is a lot of wealth buried inside the house. Her family believed on him and started puja. The applicant took her jewelries of worth around Rs.4 lakhs and jewelries of her married daughter worth of Rs.1 lakh and stated that if they get puja stopped then the entire family will die. He got her car sold for money for puja. He got the house excavated in which 15 kg victoria silver coins, 1/2 kg diamond, gold and mixed material statues of various deities were discovered which was told as the reason for sorrow in the house. He stated that the same be put in Ganges river and took it from them. He stated that there was more money in the house for which puja is to be done. He used to commit rape upon her by overpowering her. In 2020 when the victim told about it to her husband and sons then with the help of persons of locality he was thrown out of the house after which he threatened them of dire consequences through his tantrik puja. He threatened her and took her to different places and kept her for months there and used to commit rape upon her. On 18.6.2020 somehow she ran away from his clutches after which he called her and abused her and told her to come to him otherwise whole family would die. On the next day i.e. 19.6.2020 her son committed suicide by drinking acid. He then kept her at the house of Munnu Pradhan and was forcibly committing rape upon her.

5. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the F.I.R. has been lodged with an unexplained delay. It is argued that date and time of the act of first rape is not mentioned in the F.I.R. but reading of the F.I.R. would go to show that the same continued since the year 2018 still the F.I.R. has been lodged after about 05 years of the said incident. It is argued that the applicant has been falsely implicated in the case because of ulterior motive. It is further argued that no such incident whatsoever has taken place. The applicant is having no criminal history as stated in para- 15 and

is in jail since 28.5.2023.

6. Per contra, learned State counsel opposed the prayer for bail vehemently and argued that the applicant is named in the F.I.R. and there are serious allegations against him of using his so called knowledge of occult science and overpowering the informant and on threat to her family, committed rape upon her. He committed cheating on the first informant and her family members and also took money from her and her married daughter. It is argued that as such prayer for bail be rejected.

7. After having heard learned counsels for the parties and perusing the record, it is evident that the applicant is named in the F.I.R., the statement of the victim/first informant recorded during investigation and there are serious allegations against him. The applicant committed rape upon the victim by extending threat to her and her family members. He also committed cheating on the first informant and her family members.

8. Looking to fact and circumstances of the case, nature of evidence and gravity of offence, I do not find it a fit case to release the applicant on bail.

9. Accordingly, the bail application is rejected.

(Samit Gopal,J.)

Order Date :- 28.11.2023

Naresh