

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40184 of 2023

Applicant :- Rashid Khan

Opposite Party :- State of U.P.

Counsel for Applicant :- Kuldeep Kumar Mishra

Counsel for Opposite Party :- G.A.,Rajnish Shukla

Hon'ble Vivek Varma,J.

1. Case diary produced by the learned AGA is taken on record.
2. Heard learned counsel for the applicant, learned A.G.A. for the State and Sri Rajnish Shukla, counsel for the informant. Perused the record.
3. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 232 of 2023, under Sections 504, 506, 354Gha I.P.C., and Section 3/5(1) of U.P. Prohibition of Unlawful Conversion of Religion Act, 2021, Police Station- Kotwali, District- Gorakhpur during pendency of the trial.
4. Counsel for the applicant submitted that it is case of failed relationship between the parties. The allegations have emerged solely on account of the fact that the parents of the victim have totally disapproved the conduct of the applicant. The applicant had earlier lodged a first information report against the informant on 24.6.2023 registered as case crime no. 317 of 2023, under Sections 384, 504 I.P.C., P.S. Ramghar Tal, District Gorkhpur. In the said case the investigation is still pending. It is contended that in order to harass the applicant and to get the matter compromised the instant prosecution has been instituted against the applicant. The applicant did not persuade the informant for conversion to another religion. The victim in her statement under Section 164 Cr.P.C. had admitted that she used to talk to the applicant. The applicant is a student whose career will be jeopardized as a result of instant false case. At this stage there is no cogent evidence to link the applicant with the present crime. The applicant has been falsely implicated. The criminal history of the applicant has been explained in para 13 to 15 of the bail application. The applicant is in jail since 1.7.2023. In case he is enlarged on bail, he will not misuse the said liberty.

5. Learned A.G.A. and counsel for the informant have also opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having heard counsel for the parties and having perused the record, this Court prima facie finds that the applicant had also lodged a first information report against the informant. An enmity exists between the parties. At this stage, there is no substantive evidence against the applicant. Further the applicant has presently remained confined for more than three months and there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant, **Rashid Khan** involved in the aforesaid case be released on bail on his furnishing a personal bond and two heavy sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not tamper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
- iii. the applicant shall appear on each and every date fixed by the trial court.
- iv. the applicant shall appear on 1st Sunday of every month at the concerned police station.**

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 :- 28.10.2023
S.S.