

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41507 of 2023

Applicant :- Shaktibhan

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Ravi Shankar Yadav, Anand Mohan Pandey, Krishan Mohan Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma, J.

1. Heard learned counsel for the applicant, learned counsel for the informant as well as learned A.G.A. for the State and perused the records.
2. The instant bail application has been filed with a prayer to enlarge the applicant on bail in Case Crime No.02 of 2018 (S.T. No.1016 of 2021), under Section 5/6 POCSO Act, Police Station-Gajner, District-Kanpur Dehat, during pendency of the trial.
3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. There is a delay of about one month in lodging the FIR. All the doctors, namely, Sanjay Tripathi, Pawan Kumar Singh and Bhupendra Singh, have not opined that any unnatural sex had been caused with the victim. In para 36 of the affidavit filed in support of the bail application, it has been mentioned that since the victim has stolen the mobile phone of the nephew of the applicant, for which, some quarrel had taken place between the family members of both the parties, hence, a false FIR has been lodged. It is lastly contended that the applicant is in jail since 2.6.2023, having no criminal antecedent to his credit, in case, he is enlarged on bail, he will not misuse the said liberty.
4. Per contra, learned counsel for the informant as well as learned A.G.A. have opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
5. Having regard to the submissions made above and the fact that the applicant has remained confined for five months and after submission of the final report 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 delay the trial 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.

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

- i. the applicant shall not temper 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.

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
m.a.