

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40962 of 2023

Applicant :- Kaptan Singh Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Rakesh Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

1. Heard Mr. Rakesh Dubey, the learned counsel for applicant and the learned A.G.A. for State.

2. Perused the record.

3. This repeat application for bail has been filed by applicant-Kaptan Singh Yadav seeking his enlargement on bail in Case Crime No. 582 of 2020, under Sections 376, 323, 504, 506 IPC, Police Station-Ghatampur, District-Kanpur Nagar during the pendency of trial i.e. Sessions Trial No. 852 of 2022 (State Vs. Chandra Shekhar and Others) now pending in the Court of Additional Sessions Judge/F.T.C.-I (CAW), Kanpur Dehat.

4. The first bail application of applicant was rejected by this Court vide order dated 12.01.2023 passed in Criminal Misc. Bail Application No. 14942 of 2021 (Kaptan Singh Yadav Vs. State of U.P.). For ready reference, the order dated 12.01.2023 is reproduced hereinunder:-

"This application has been filed with a prayer to release the accused applicant on bail in Case Crime No.582 of 2020, under Sections 376, 323, 504, 506 I.P.C., Police Station Ghatampur, District Kanpur Nagar.

Heard Shri Arun Kumar Singh, learned counsel for the accused applicant as well as learned A.G.A. appearing on behalf of the State.

Learned counsel for the accused applicant has submitted that the accused applicant is innocent and has falsely been implicated in the case. It is further submitted that the victim was a consenting party and she lodged the F.I.R. under the pressure of the family members. The applicant is in jail since 23.12.2020 having no criminal history as has been stated in paragraph 17 of the affidavit filed in support of the present bail application, hence, the applicant should be released.

Contrary to it, learned A.G.A. appearing on behalf of the State has opposed the bail application of the accused applicant. He further submitted that the victim has supported the prosecution case in her statement recorded under Section 161 Cr.P.C. He further submitted that when family of the victim went to complain about the accused applicant, then accused and his family members assaulted the family members of the victim and they got injured and all the injured persons have supported the prosecution case, hence he should not be enlarged on bail.

Considered the rival submissions made by the parties' counsel and perused the material available on record.

Considering all the facts and circumstances of the case and the severity of the offence, no case for bail is made out.

The prayer for bail is declined and the bail application of the applicant Kaptan Singh Yadav, is rejected.

However, the learned lower court is directed to expedite the trial and conclude the same expeditiously keeping in view the provisions of Section 309 Cr.P.C."

5. Learned counsel for applicant submits that subsequent to the order dated 12.01.2023, the prosecutrix has deposed before court below as PW-1 whereas the first informant has deposed before court below as PW-2. Both the witnesses have not supported the FIR. On the above premise, he, therefore, submits that no useful purpose shall be served in prolonging the custodial arrest of applicant during the pendency of trial. It is thus urged that applicant is liable to be enlarged on bail.

6. Even otherwise, applicant is a man of clean antecedents having no criminal history to his credit except the present one. Applicant is in jail since 23.12.2020. As such, he has undergone more than 2 years and 10 months of incarceration. The police report in terms of Section 173(2) Cr.P.C. has already been submitted. As such, the entire evidence sought to be relied upon by the prosecution against applicant stands crystallized. However, up to this stage, no such circumstance has emerged necessitating the custodial arrest of applicant during the pendency of trial. He, therefore, contends that applicant is liable to be enlarged on bail. In case, the applicant is enlarged on bail, he shall not misuse the liberty of bail and shall co-operate with the trial.

7. Per contra, the learned A.G.A. has opposed the prayer for bail. He has invited the attention of Court to the statement in chief of the prosecutrix (PW-1) at page 106 of the paper book. With reference to above, the learned A.G.A. submits that in view of the

recital contained at aforementioned page of the paper book, it cannot be definitely concluded that the prosecutrix has not supported the FIR. He, therefore, contends that no new or sufficient ground has emerged to enlarge the applicant on bail. According to the learned A.G.A., the applicant has criminal history of one case i.e. Case Crime No. 575 of 2019, under Sections 452, 427, 323, 506, 504 IPC and Section 3(1) SC/ST Act, Police Station-Ghatampur, District-Kanpur Nagar. On the above premise, the learned A.G.A. contends that since no new or sufficient ground has emerged to enlarge the applicant on bail. Therefore, the present application for bail filed by applicant is liable to be rejected.

8. When confronted with above, the learned counsel for applicant could not overcome the same.

9. Having heard, the learned counsel for applicant, the learned A.G.A. for State, upon perusal of record, evidence, complicity of accused, accusations made coupled with the fact that the prosecutrix in her deposition before court below (as PW-1) has given statement which supports the FIR as is clearly explicit from the recital contained at page 106 of the paper book, therefore, irrespective of the submissions urged by the learned counsel for applicant in support of the present application for bail, but without making any comments on the merits of the case, this Court does not find any new or sufficient ground to enlarged the applicant on bail.

10. As a result, present repeat application for bail fails and is liable to be rejected.

11. It is accordingly **rejected**.

Order Date :- 30.10.2023

Vinay