

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41424 of 2023

Applicant :- Jabar Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Sandeep Kumar Rai, Vivek Singh

Counsel for Opposite Party :- G.A., Vijit Saxena

Hon'ble Samit Gopal, J.

1. List revised.

2 Heard Sri Vivek Singh, learned counsel for the applicant, Sri Vijit Saxena, learned counsel for the first informant, Sri Ajay Singh, learned A.G.A.-I for the State and perused the records.

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Jabar Singh, seeking enlargement on bail during trial in connection with Case Crime No. 506 of 2023, under Sections 376, 323, 506 I.P.C. registered at P.S. Kankarkheda, District Meerut.

4. The F.I.R. of the matter was lodged on 09.8.2023 by Vikram Singh against the applicant alleging therein that his daughter was married two years back with Nishant. She is having no child. Her father-in-law Jabar Singh was having an evil eye on her. Around a month back he committed rape upon her by threatening her and threatened her that if she discloses it to anyone, she would be murdered. She out of fear did not tell to anyone. Her father-in-law used to trouble her often. She told about it to her Bhabhi who then told it to the informant. On 09.8.2023 when he sent his daughter-in-law and son to bring his daughter back which was informed to her in-laws but her father-in-law refused to send her back.

5. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the applicant is father-in-law of the victim who is daughter of the informant. It is argued that the First Information Report has been lodged after an inordinate delay of about one month for which there is no explanation given. It is argued that there was a dispute between father-in-law and the family of the victim and due to ulterior motive the present F.I.R. has been lodged. It is argued that the applicant is aged about 67 years and is an old and sick person. Para-13 of the affidavit and the adhaar card being annexure 6 has been placed for it. It is further argued that earlier the victim had married Aman Bhati and there was family dispute with him and after divorce, the victim married the son of the applicant. It is further argued that medical examination report does not support the prosecution case. It is argued that the applicant is having no criminal history as stated in para-18 and is in jail since 11.08.2023.

6. Per contra, learned counsel for the first informant vehemently opposed the prayer for bail and argued that the applicant is named in the F.I.R., the statements of the victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. and there is allegation of his committing rape on his daughter-in-

law. Learned counsel has placed before the Court para-13 of the affidavit in support of bail application and has argued that the averment that the applicant is aged about 67 years being his date of birth 25.11.1956 and annexure no. 6 being adhaar card of the applicant which has been filed, is a false averment and a forged document. It is argued that para-8 of the counter affidavit filed on behalf of the first informant clearly states that the correct date of birth of the applicant is 25.11.1966 but a forged adhaar card has been filed just in order to take sympathy of the Hon'ble Court. It is argued that even the contents of para-8 of the counter affidavit have not been denied in the rejoinder affidavit filed on behalf of the applicant. It is argued that the prayer for bail be thus rejected.

7. Learned A.G.A. also opposed the prayer for bail vehemently.

8. After having heard learned counsels for the parties and perusing the records, it is evident that the applicant is father-in-law of the victim. He is named in the F.I.R., the statements of the victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. and there is allegation of rape being committed by him on his daughter-in-law. There is false averment in para-13 of the affidavit which is being pressed by placing adhaar card of the applicant by stating that he is aged about 67 year. The same is disputed in the counter affidavit of the informant and the said document is stated to be a forged document. The said fact has not been denied or contradicted in the rejoinder affidavit.

9. Looking to the facts of the case, relationship of the applicant with the victim, nature of incident and also an effort to gain advantage by misleading the Court, no case for bail is made out.

10. The present bail application is thus rejected.

(Samit Gopal,J.)

Order Date :- 8.11.2023

Naresh