

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44115 of 2023

Applicant :- Ashish Chauhan

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

Counsel for Applicant :- Kameshwar Singh, Sudhanshu Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot, J.

By means of the the bail application the applicant has prayed to be enlarged on bail in Case Crime No. 248 of 2023 at Police Station-Nagara, District-Ballia under Section 376(3) I.P.C. and 3/4(2) of POCSO Act. The applicant is in jail since 30.07.2023.

The bail application of the applicant was rejected by the learned trial court on 25.08.2023.

The following arguments made by Shri Kameshwar Singh, learned counsel assisted by Shri Shiv Shankar Shukla, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Paritosh Kumar Malviya, learned AGA-I for the State from the record, entitle the applicant for grant of bail:

- (1). The applicant and the victim are neighbours. They grew fond of each other over the years.
- (2). Their relationship was opposed by the family members of the victim.
- (3). The FIR was got lodged only to deflect attention

from the conduct of the victim.

(4). No allegation of commission or rape by the applicant with the victim has been made in the FIR or in her statement under Section 161 CrPC. The victim has admitted to intimacy with the applicant.

(5). Subsequently, false and aggravated allegations were made by the victim belatedly in her statement under Section 164 Cr.P.C. at the behest of her parents to save the failing prosecution case.

(6). Material inconsistencies in the FIR, statements of the victim under Section 161 and 164 CrPC discredit the prosecution case.

(7). The victim was never confined or bound down in any manner. The victim was present at various public places but never raised an alarm nor did she resist the applicant. The conduct of the victim shows that she was a consenting party.

(8). The case at best is one of teenage infatuation.

(9). Medical evidence to corroborate commission of rape by the applicant with the victim has not been produced by the prosecution.

(10). The applicant does not have any criminal history apart from this case.

(11). The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated

with the investigation and undertakes to join the trial proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant-**Ashish Chauhan** be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

- (i) The applicant will not tamper with the evidence or influence any witness during the trial.
- (ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

Order Date :- 17.10.2023

Vandit