

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42904 of 2023

Applicant :- Rajesh

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

Counsel for Applicant :- Bharat Singh

Counsel for Opposite Party :- G.A.,Rajendra Kumar Yadav

Hon'ble Umesh Chandra Sharma,J.

1. Heard Sri Bharat Singh, learned counsel for the applicant, learned AGA for the State, Sri Rajendra Kumar Yadav, learned counsel for the informant and perused the record.

2. By means of this bail application, applicant seeks bail in Case Crime No.311 of 2023, under Sections 363, 366A, 370 IPC and Section 16/17 POCSO Act, Police Station Sahaswan, District Budaun, during the pendency of trial.

3. It is submitted by learned counsel for the applicant that the applicant is innocent and has been falsely implicated in the present case. It is further contended that there is major contradictions in the statements of the victim recorded under Sections 161 and 164 CrPC. Virtually the victim had fallen in love with Sitaram; she called him and left her house and went to Himachal Pradesh. The victim also admitted that she and Sitaram lived there as wife and husband. He further contended that when she came to the contact of her parents, she was tutored and has given self-contradictory statement under Section 164 CrPC and has denied the averments mentioned in the statement recorded under Section 161 CrPC. It is also contended that the co-accused, Jaidev has already been enlarged on bail by a co-ordinate Bench of this Court vide order dated 28.10.2023 passed in Criminal Misc. Bail Application No.42999 of 2023. He, therefore, argued that since the case of the applicant is on the better footing to that of the aforesaid co-accused, the applicant is also entitled to be enlarged on bail on the ground of parity also. There is no previous criminal history of the applicant. There is no likelihood of his abscondence or tampering with the evidence. The applicant is languishing in jail since 02.08.2023. In case, the applicant is released on bail, he will not misuse the said liberty.

4. The prayer for bail has been vehemently opposed by learned AGA. However, the aforesaid submissions advanced by the

counsel for the applicant could not be disputed by him.

5. Considering the facts, circumstances and the submissions made by learned counsel for the parties but without commenting on the merits of the case, this Court is of the view that the applicant has made out a case for grant of bail. Accordingly, the bail application is allowed.

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

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence;

(iii) shall not pressurize the prosecution witnesses.

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 :- 17.11.2023

Shahroz