

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42554 of 2023

Applicant :- Rajpal And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Anjali Singh Tomer

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

Supplementary affidavit filed on behalf of the applicant is taken in the record.

By means of the bail application the applicant has prayed to be enlarged on bail in Case Crime No.223 of 2023 at Police Station-Jhinjhana, District- Shamli under Sections 376D, 354B, 452, 323, 506 IPC. The applicant is in jail since 26.06.2023.

The bail application of the applicant was rejected by the learned trial court on 29.08.2023.

The following arguments made by Ms. Anjali Singh Tomar, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by and Shri Paritosh Kumar Malviya, learned AGA-I from the record, entitle the applicant for grant of bail:

1. Delay in taking out proceedings under Section 156(3) Cr.P.C. and consequent lodgement of the F.I.R. in the facts and circumstances of this case is fatal to the prosecution

case.

2. The applicants have been nominated only on account of the land dispute between the parties.

3. The criminal proceedings are being leveraged to settle the land dispute on terms of the first informant.

4. Medical evidence does not corroborate the prosecution case from the statements of the victim under Sections 161 Cr.P.C. and 164 Cr.P.C.

5. The incident allegedly happened at the house of the victim. However, there is no sign of forced entry.

6. The applicant did not capture, store or circulate any indecent photographs or video of the victim. None were recovered from the applicant.

7. Prosecution evidence does not connect the applicants with the offence.

8. The applicants claim congruency in role and seeks parity in relief granted to the co-accused who have been enlarged on bail by this Court by order dated 11.10.2023, 11.10.2023 in Criminal Misc. Bail Application Nos. 41903 of 2023 and 40901 of 2023 respectively.

9. The applicants do not have any criminal history apart from this case.

10. The applicants are not flight risk. The applicant being law abiding citizen have 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 applicants- **Rajpal** and **Ravi** 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 applicants will not tamper with the evidence or influence any witness during the trial.
- (ii) The applicants will appear before the trial court on the date fixed, unless personal presence is exempted.

Order Date :- 13.10.2023

Dhananjai