

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42751 of 2023

Applicant :- Narayndas

Opposite Party :- State of U.P.

Counsel for Applicant :- Sunil Kumar Kushwaha

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

1. Heard Mr. Sunil Kumar Kushwaha the learned counsel for applicant and the learned A.G.A. for State

2. Perused the record.

3. Instant bail application has been filed by applicant-Narayndas seeking his enlargement on bail in Case Crime No.48 of 2023 under Sections 376 I.P.C., Police Station-Nadigaon, District-Jalaun, during the pendency of trial.

4. Record shows that in respect of an incident, which is alleged to have occurred on 25.04.2023 a detailed F.I.R. dated 26.004.2023, was lodged by first informant-Smt. Pooja Devi and was registered as Case Crime No.48 of 2023 under Sections 376 I.P.C., Police Station-Nadigaon, District-Jalaun. In the aforesaid F. I.R., applicant Narayndas has been nominated as solitary named accused.

8. Learned counsel for applicant contends that applicant is innocent. Applicant is cousin father-in-law of the prosecutrix. Applicant is aged about 40 years. Present criminal proceedings have been engineered on account of extraneous consideration. Medical evidence does not support the prosecution story as

unfolded in the F.I.R.. The prosecutrix in her statements recorded under Sections 161/164 Cr.P.C. has not specifically detailed the manner of occurrence. Even otherwise applicant is a man of clean antecedents inasmuch he has no criminal history to his credit except the present one. Applicant is in custody since 24.08.2023. As such, he has under-gone more than one and a half months of incarceration. The police report (charge-sheet) in terms of Section 173 (2) Cr.P.C. has already been submitted, therefore, the entire evidence sought to be relied upon by the prosecution against applicant stands crystallised. Upto this stage, no such incriminating 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.

11. Per contra, the learned A.G.A. for State has opposed the prayer for bail. He submits that since the applicant is a named as well as charge-sheeted accused, therefore, he does not deserve any indulgence by this Court. However, the learned A.G.A. could not dislodge the factual and legal submissions urged by the learned counsel for applicant with reference to the record at this stage.

10. Having heard the learned counsel for applicant, the learned A.G.A. for State, upon consideration of evidence on record, accusations made as well as complicity of applicant coupled with the fact that applicant is cousin father-in-law of the prosecutrix, who is aged about 40 years, present criminal proceedings have been engineered on account of extraneous consideration, medical evidence does not support the ocular version, there is delay in lodging the F.I.R. which remains unexplained in the statement of prosecutrix under Sections 161/164 Cr.P.C., the prosecutrix in her

statements has not specifically detailed the manner of occurrence, clean antecedents of applicant, period of incarceration undergone, the charge sheet having been submitted therefore entire evidence sought to be relied upon by the prosecution stands crystalized, learned A.G.A. could not point out any such circumstance from the record necessitating the custodial arrest of applicant during the course of trial, the judgement of Apex Court in **Sumit Subhashchandra Gangwal Vs. State of Maharashtra, 2023 LiveLaw (SC) 373** (Paragraph 5), therefore irrespective of the submissions raised by the learned A.G.A. in opposition to the present application for bail but without expressing any opinion on the merits of the case, applicant has made out a case for bail.

11. Accordingly, present application for bail is allowed.

12. Let the applicant-**Narayndas** involved in aforesaid case crime number be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) Applicant will not tamper with prosecution evidence.

(ii) Applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) Applicant will not indulge in any unlawful activities.

(iv) Applicant will not misuse the liberty of bail in any manner whatsoever.

13. The identity, status and residential proof of sureties will be

verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail of applicant and send him to prison

Order Date :- 16.10.2023

YK