

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43223 of 2023

Applicant :- Jishan

Opposite Party :- State of U.P.

Counsel for Applicant :- Vikram Singh

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

By means of the bail application the applicant has prayed to be enlarged on bail in Case Crime No. 450 of 2023 at Police Station-Kotwali Nagar, District- Muzaffar Nagar under Section 376 IPC. The applicant is in jail since 26.08.2023.

The bail application of the applicant was rejected by the learned trial court on 26.09.2023.

The following arguments made by Shri Vikram Singh, 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 lodgement of the FIR in the facts of the case is fatal to the prosecution case.
2. The applicant and victim were intimate and had a consensual physical relationship over the years.
3. The F.I.R. is the result of a relationship between the applicant and victim gone awry.

4. The applicant never gave a plighted word to marry the victim.
5. The criminal proceedings are being leveraged to force the applicant to marry her and to extort money from him.
6. Medical evidence to corroborate commission of rape by the applicant with the victim has not been produced by the prosecution.
7. The applicant does not have any criminal history apart from this case.
8. 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- **Jishan** 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 :- 6.11.2023

Jaswant