

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43177 of 2023

Applicant :- Vishnu @ N.D

Opposite Party :- State of U.P.

Counsel for Applicant :- Satya Narayan Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Sri Raghuraj Singh Kushwaha, Advocate filed his power on behalf of the informant which is taken on record.
2. Heard Sri Satya Narayan Yadav, learned counsel for the applicant and Sri Raghuraj Singh Kushwaha, learned counsel for the informant and Dr. S. B. Maurya, learned AGA-I for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 130 of 2023, under Sections 376, 506, 509 and 120-B IPC, Police Station Pachokhara, District Firozabad, during pendency of the trial in the court below.
4. FIR of the present case was lodged against the applicant and others on 1.7.2023 and according to the FIR, on 8.5.2023 applicant and three other accused persons committed rape with the informant and the incident of rape has been captured by applicant in his mobile and they threatened the informant to viral the video and thereafter when on 28.6.2023, applicant and other accused persons again tried to commit rape with the informant then anyhow informant managed to escape and lodged the FIR.
5. Learned counsel for the applicant submitted that the entire allegations made against the applicant are totally false and FIR of the present case was lodged on 1.17.2023 i.e. after almost two months from the date of incident of rape.
6. He further submitted that as per allegation applicant also prepared obscene videos of the victim and due to the threat to viral the same earlier she did not lodge the FIR of the present case but during investigation, no video of the victim could be recovered and this fact clearly suggests that totally on the basis of false allegation, applicant and others have been made accused in the present matter.
7. He further submitted that applicant is having no criminal history

and he is in jail in the present matter since 13.8.2023.

8. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that it is a case of gang rape and there is specific allegation against the applicant in the FIR as well as in both the statements of the victim.

9. Learned AGA further pointed out that applicant is having criminal history of one case of section 427 IPC.

10. I have heard learned counsel for the parties and perused the record of the case.

11. Considering the fact that FIR of the present case was lodged after 50 days and explanation given by the informant with regard to the delay in lodging the FIR appears to be false as during investigation no obscene video of the victim could be recovered, in my view, applicant is entitled to be released on bail.

12. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

13. Let the applicant-**Vishnu @ N.D**, be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

14. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

15. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 19.10.2023/Ankita