

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43513 of 2023

Applicant :- Dhani Ram

Opposite Party :- State of U.P.

Counsel for Applicant :- Dr. Arun Srivastav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Dr.Arun Srivastava, learned counsel for the applicant and Sri Imran Khan, learned AGA, for the State.
2. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.157 of 2023, under Sections 452,506, 376 (2)N, 323, 447, 448, 420 and 504 IPC, Police Station Bithari Chainpur,District Bareilly during pendency of the trial.
3. FIR of the present case was lodged against the applicant and his wife on 3.5.2023 and according to the FIR after the elopement of the husband of the informant, applicant, who was the friend of her husband started committing rape with her and thereafter he also started living in the house of informant along with his wife and children. It is further mentioned in the FIR that due to the sexual exploitation of applicant informant also delivered a daughter and he is continuously sexually exploiting her.
4. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and FIR of the present case was lodged after several years and on the basis of vague allegation of sexual exploitation applicant has been made accused in the present matter.
5. He further submits that admittedly victim, i.e., informant of the

case is a major and married lady and it appears that she according to her own she had started living with applicant as his second wife.

6. He further submits that applicant being friend of the husband of the informant came closer to the informant and he always took full care of her, his wife is also not having any objection with the relation of applicant with the informant but subsequently some dispute arose between them and thereafter FIR of the present case was lodged.

7. He further submits that applicant is in jail in the present matter since 17.6.2023.

8. Per contra, learned AGA although opposed the prayer for bail but could not dispute the argument on facts advanced by the learned counsel for the applicant. However, he further submitted that applicant is having criminal history of two cases and one case is of Section 366 IPC.

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

10. Although it appears that apart from the present matter applicant is also having criminal antecedents of two other cases including one case of Section 366 IPC but as far as merit of the present case is concerned, admittedly, the informant, i.e., victim of the case is a major and married lady and her consent is apparent from the FIR and from her both the statements recorded under Sections 161 and 164 Cr.P.C. and FIR of the present case was lodged after several years.

11. Law is settled that bail application should not be dismissed on the ground of criminal antecedents of accused, if otherwise case of bail is made out.

12. Further, applicant is in jail since 17.6.2023.

13. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

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

15. Let the applicant-Dhani Ram 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.

16. 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.

17. 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 :- 12.10.2023

SKM