

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43560 of 2023

Applicant :- Sudhir

Opposite Party :- State of U.P.

Counsel for Applicant :- Abhinav Singh

Counsel for Opposite Party :- G.A.,Dhiraj Kumar Pandey

Hon'ble Ajay Bhanot,J.

By means of the bail application the applicant has prayed to be enlarged on bail in Case Crime No.126 of 2023 at Police Station-Mahila Thana, District-Saharanpur under Sections 376(2)(n), 504, 506 IPC. The applicant is in jail since 25.08.2023.

The bail application of the applicant was rejected by the learned trial court on 21.09.2023.

The following arguments made by Shri Abhinav Singh, learned counsel assisted by Shri Ankit Kumar, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Dhiraj Kumar Pandey, learned counsel assisted by Shri Vikas Chauhan, learned counsel for the informant and Shri Paritosh Kumar Malviya, learned AGA-I from the record, entitle the applicant for grant of bail:

1. The delay in lodgment of the F.I.R. in the facts and circumstances of the case is fatal to the prosecution case.
2. The applicant and the victim were intimate and had a consensual physical relationship.

3. The F.I.R. is the result of a relationship between the applicant and victim going awry.
4. The applicant never gave any plighted word to marry with the victim.
5. The F.I.R. is being leveraged to force the applicant to marry with the victim.
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 cooperate with the court 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-Sudhir 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 :- 12.10.2023

Ashish Tripathi