

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43599 of 2023

Applicant :- Pradeep Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Sudhir Kumar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

By means of the the bail application the applicant has prayed to be enlarged on bail in Case Crime No.138 of 2023 at Police Station-Mirhachi, District-Etah under Section 498A, 376, 377, 504, 506, 323, 308 I.P.C. and Section 3/4 of D.P. Act. The applicant is in jail since 24.07.2023.

The bail application of the applicant was rejected by the learned trial court on 09.08.2023.

The following arguments made by Shri Sudhir Kumar Tiwari, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Vinay Kumar Srivastava, learned counsel for the informant and Shri Ashish Ojha, learned AGA from the record, entitle the applicant for grant of bail:

- 1.The F.I.R. arises out of a matrimonial dispute.
2. The applicant is the husband of the victim.
4. The applicant did not torture the victim nor did he

demand dowry.

5. The victim had another love interest. She was forced to marry the applicant against her wishes by her family.

6. Criminal proceedings are being leveraged by the victim in the matrimonial dispute.

7. Medical evidence to corroborate commission of rape or forceful assault by the applicant with the victim has not been produced by the prosecution.

8. Prosecution evidence does not connect the applicant with the offence.

9. Learned AGA contends that the applicant has criminal history of some more cases. Rejoining this issue, learned counsel for the applicant contends that the applicant is in jail. He does not have an effective pairokar. Hence details of the status of the said criminal cases could not be stated in the first instance in the bail application. However, on the basis of records available with the learned AGA and the upon instructions from the applicant, learned counsel for the applicant submits that the applicant is a convenient scapegoat for the police authorities. He was falsely framed in the said cases and do not have any bearing on the instant bail application.

10. 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- **Pradeep Kumar** 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

Dhananjai