

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44069 of 2023

Applicant :- Suraj Nishad

Opposite Party :- State Of U.P.And Another

Counsel for Applicant :- Karunesh Pratap Singh

Counsel for Opposite Party :- G.A.,Manoj Kumar Singh Vats,Rajeev Kumar Singh

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. 69 of 2023 at Police Station-Belipaar, District-Gorakhpur under Sections 366, 342, 376, 506 I.P.C. The applicant is in jail since 11.05.2023.

The bail application of the applicant was rejected by the learned trial court on 17.08.2023.

The following arguments made by Shri Karunesh Pratap Singh, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Rajeev Kumar Singh, learned counsel on behalf of the informant and Shri Shravan Kumar Dubey, learned AGA for the State from the record, entitle the applicant for grant of bail:

- (1). The applicant and the victim were intimate.
- (2). The F.I.R. is the result of opposition of the victim's family to the said relationship.
- (3). The victim in her statement under Section 161 Cr.P.C. has asserted that she eloped with the

applicant to Ahmedabad and from thereon to went to Punjab.

(4). The victim has made a complaint before the learned trial court at Ferozepur, Punjab. The said complaint before the trial court asserts that the victim had got married to the applicant and was harassed by her family members.

(5). The victim was never confined or bound down in any manner. The victim was present at various public places but never raised an alarm nor did she resist the applicant. The conduct of the victim shows that she was a consenting party.

(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-**Suraj Nishad** 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 :- 17.10.2023

Vandit