

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53016 of 2022

Applicant :- Sundar Lal

Opposite Party :- State of U.P.

Counsel for Applicant :- Firdos Ahmad, Adesh Kumar, Brijesh Kumar Yadav, Mahesh Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Adesh Kumar, learned counsel for the applicant and Sri Ghanshyam Mishra, learned Brief Holder for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 334 of 2022, under Sections 376 IPC, Police Station Kokhraj, District Kaushambi during pendency of the trial.
3. FIR of the present case was lodged against applicant on 27.05.2022 and according to the FIR applicant i.e. father of the victim committed rape upon her on 06.05.2022.
4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and as informant i.e. victim of the case was having some friendship with another boy of the village, therefore, applicant i.e. father objected for the same and only due to this reason, she implicated the applicant in the present matter.
5. He further submits that as per FIR rape was committed on 06.05.2022 but FIR of the present case was lodged on 27.05.2022 i.e. after three weeks of the incident and this fact clearly suggests that on the basis of false allegation, applicant has been made accused in the present matter.
6. He further submits that there are material contradictions in the statements of the informant recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. with regard to the presence of her mother. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 22.06.2022 i.e. for more than a year.

7. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is father of the victim and victim categorically stated in the FIR as well as in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. that applicant committed rape upon her and even her mother also stated against the applicant. He further submits that applicant failed to bring any good reason for his false implication and defence taken by the applicant appears to be vague, therefore, considering the facts and circumstances of the case, applicant should not be released on bail.

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

9. However, FIR of the present case was lodged after three weeks from the date of incident and even there are some contradictions in the statements of the victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. with regard to presence of her mother i.e. wife of the applicant but applicant is father of the victim and victim in her both the statements categorically stated that applicant committed rape upon her, therefore, considering the relationship of the applicant with the victim, I am not inclined to release the applicant on bail.

10. Accordingly, the instant bail application is rejected.

11. 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 :- 29.11.2023

AK Pandey