

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44387 of 2023

Applicant :- Rakesh Singh

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Vipul Kumar Dubey, Manoj Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Sri Chandramani Singh, Advocate filed his power on behalf of the informant, today in the Court, which is taken on record.
2. Heard Sri Vipul Kumar Dubey, learned counsel for the applicant, Sri Chandramani Singh, learned counsel for the informant and Sri Manoj Kumar Singh, learned Brief Holder for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 255 of 2023, under Sections 354, 504, 506, 376 IPC, Police Station Jahanaganj, District Azamgarh during pendency of the trial.
4. FIR of the present case was lodged against applicant and according to the FIR applicant made sexual assault upon the daughter of the informant aged about 19 years.
5. Learned counsel for the applicant submitted that in the FIR and in the statement of victim recorded under Section 161 Cr.P.C. the only allegation against the applicant is of sexual assault but when her statement under Section 164 Cr.P.C. was recorded then she started making allegation of rape against the applicant and this fact clearly suggests that totally on the basis of false allegation, applicant has been made accused in the present matter. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 08.08.2023.
6. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

8. Considering the fact that victim neither in the FIR nor in the statement recorded under Section 161 Cr.P.C. made allegation of rape against the applicant and for the first time victim in her statement recorded under Section 164 Cr.P.C. made such allegation against him, in my view, applicant is entitled to be released on bail.

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

10. Let the applicant - **Rakesh Singh** 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.

11. 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.

12. 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 :- 18.10.2023

AK Pandey