

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44573 of 2023

Applicant :- Mohd. Akram

Opposite Party :- State of U.P.

Counsel for Applicant :- Mukesh Joshi

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Mukesh Joshi, learned counsel for the applicant and Sri R.N. Srivastava, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 412 of 2023, under Sections 406, 420, 467, 468, 471, 376-D, 506, 363, 120-B IPC & 12 Passport Act, Police Station- Civil Lines, District- Moradabad, during pendency of the trial in the court below.
3. FIR of the present case was lodged against applicant and others and according to the FIR, applicant and others under the pretext to provide job to the informant duped Rs. 2,50,000/- from her and thereafter they provided a joining letter to her and in the month of June, 2021, applicant and co-accused Sadik committed rape with her in the hotel.
4. It is further mentioned in the FIR that when informant demanded back her money then on 06.04.2022 she and her son were abducted and she was also raped by one auto driver and his two associates.
5. Learned counsel for the applicant submitted that omnibus allegations have been levelled in the FIR against applicant and number of other accused persons. He further submitted that even story narrated by the victim in the FIR appears to be quite vague and no reliance can be placed on such version.
6. He further submitted that actually victim i.e. informant of the case worked in the institute of the applicant but due to her bad conduct, she was removed and thereafter she lodged FIR of the present case.

7. He further submitted that although, as per the allegation, rape was committed by applicant and co-accuse Sadik in the hotel in June, 2021 but FIR was lodged on 12.05.2023 i.e. after about two years and this fact clearly suggests that totally on the basis of false allegation, applicant has been made accused in the present matter.

8. He further submitted that bail application of co-accused Sadik has been allowed by co-ordinate Bench of this Court and case of applicant is at par with him.

9. He further submitted that although, applicant is having criminal history of two cases but in both the cases he has been acquitted by the trial court and he is in jail since 22.02.2023.

10. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the fact that as per the allegation, rape was committed by the applicant and co-accused Sadik in the month of June, 2021 but FIR of the present case was lodged on 12.05.2023 i.e. after two years and co-accused Sadik has been released on bail and allegation of rape was also against him.

11. However, learned AGA further pointed out that apart from the two cases, applicant is also having criminal history of one other case.

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

13. Considering the fact that FIR of the present case was lodged after two years of alleged rape and story narrated by the informant appears to be quite improbable and co-accused Sadik has been released on bail and case of applicant is at par with him, in my view, applicant is entitled to be released on bail.

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

15. Let the applicant- **Mohd. Akram** 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.

16. 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.

17. 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 :- 19.10.2023

KK Patel