

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45099 of 2023

Applicant :- Lavakush

Opposite Party :- State of U.P.

Counsel for Applicant :- Agni Pal Singh, Pratima Singh

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.186 of 2023 at Police Station-Radha Nagar, District-Fatehpur under Section 376, 504, 506 I.P.C. and Section 66 (E) of I.T. Act. The applicant is in jail since 27.07.2023.

The bail application of the applicant was rejected by the learned trial court on 05.10.2023.

The following arguments made by Shri Agni Pal Singh, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Raj Kumar Verma, learned counsel for the informant and Shri Shrawan Kumar Dubey, learned AGA from the record, entitle the applicant for grant of bail:

1. Delay in lodgement of the F.I.R. in the facts and circumstances of this case is fatal to the prosecution case.
2. The victim and the applicant were intimate and had a

consensual physical relationship.

3. Certain intimate photographs and videos of the victim and applicant were captured in the mobile device of the applicant with the consent of parties during their relationship.

4. However, videos or photographs were never circulated by the applicant on any social media or otherwise. The police investigations have established this fact.

5. False and aggravated version has been stated in the F.I.R. which is evident from the fact that the father of the applicant was also named as one of the principle offenders. However, he was exonerated during the course of police investigations.

6. The applicant has been nominated only to deflect attention from the conduct of the victim and to extort money from him.

7. The victim was never confined or bound down in any manner. The victim did not raise an alarm or did she resist the applicant. Her conduct shows that she was a consenting party.

8. Medical evidence to corroborate commission of rape by the applicant with the victim has not been produced by the prosecution.

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

10. Learned AGA contends that the applicant has criminal history of one more case apart from the instant case. Rejoining this issue, learned counsel for the applicant contends that the applicant is in jail. He does not have an effective pairakar. Hence details of the status of the said criminal case 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 case. The said case does not depict commission of any heinous crime and has no bearing on the instant bail application.

11. 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- **Lavakush** 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 :- 27.10.2023

Dhananjai