

**Court No. - 70**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 45204 of 2023

**Applicant :-** Laxmi Prasad Rajpoot

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Sanjay Kumar,Raj Kumar Vaishya

**Counsel for Opposite Party :-** G.A.

**Hon'ble Sameer Jain,J.**

1. Heard Sri Raj Kumar Vaishya, learned counsel for the applicant and Dr. S. B. Maurya, learned AGA-I for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 344 of 2023, under Sections 450, 376, 506 IPC, Police Station Rath, District Hamirpur, during pendency of the trial in the court below.
3. FIR of the present case was lodged against the applicant by the victim herself and according to the FIR on 20.7.2023 at about 1 am in the night, informant who is 70 years old was sleeping in her home, applicant came and inserted his finger in her vagina.
4. It is further mentioned in the FIR that applicant also filled dry colour in her vagina.
5. Learned counsel for the applicant submitted that applicant is about 66 years old and infirm person and victim is also 70 years old lady and totally on the basis of false allegation, applicant has been made accused in the present matter.
6. He further submitted that the story narrated by the victim in the FIR as well as in both the statements recorded under sections 161 and 164 Cr.P.C. appears to be absurd and no reliance can be placed on such version.
7. He further submitted that actually nephew of the victim used to do eve teasing with the niece of the applicant and when applicant made complaint then only due to this reason, informant implicated him in the present matter.
8. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 24.7.2023.

9. Per contra, learned AGA opposed the prayer for bail and submitted that victim is 70 years old lady and applicant inserted his finger in her vagina and also filled dry colour in her vagina and therefore, allegation against the applicant are serious but could not dispute the fact that applicant is also about 66 years old person and he is having no previous criminal history apart from the present case.

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

11. A very unusual allegation has been leveled against the applicant and it appears from the record that victim is about 70 years old lady and on the other hand applicant is also 66 years old person and story narrated by the victim does not appear to be convincing.

12. Further, applicant is having no criminal history and he is in jail in the present case since 2.4.2023.

13. Therefore, considering the facts and circumstances of the case, discussed above, particularly the fact that applicant is about 66 years old and infirm person, 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-**Laxmi Prasad Rajpoot**, 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 :- 27.10.2023**

Ankita