

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45572 of 2023

Applicant :- Sandeep

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjeev Kumar Rai

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Sanjeev Kumar Rai, learned counsel for the applicant and Sri Kunwar Tejendra Bahadur, learned AGA, for the State.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 229 of 2023, under Sections 376-D, 354-B IPC, Police Station Jhinhana, District Shamli, during pendency of the trial in the court below.

3. FIR of the present case was lodged against the applicant and 4 others and according to the FIR, applicant and other co-accused persons dragged the wife of the informant in the filed and thereafter they tore her cloths and co-accused Kuldeep committed rape with her.

4. Learned counsel for the applicant submitted that the entire allegations made against the applicant are totally false and in the FIR and in the statements of the victim recorded under sections 161 and 164 Cr.P.C. the allegation of rape is only against the co-accused Kuldeep.

5. He further submitted that actually applicant is the close

relative of co-accused Kaushindra and only due to the reason he has been roped in the present matter along with him as the wife of Kaushindra had lodged an FIR on 6.6.2023 against the son of the informant and three others under Sections 452, 376D, 506 IPC at P.S. Jhinhana, District Shamli in case crime No. 223 of 2023.

6. He further submits that the FIR dated 6.6.2023 lodged by the wife of Kaushindra has been annexed as Annexure-11 to the affidavit filed in support of the instant bail application.

7. He next submits that co-accused Kaushindra has already been released on bail by this Court on 6.10.2023 and his bail order has been annexed as Annexure-14 to the affidavit filed in support of the present bail application and the case of applicant is at par with him.

8. He further submits that although applicant is having criminal history of two other cases but his criminal history has been explained in paragraph-27 of the affidavit filed in support of the instant bail application.

9. He further submits that applicant is in jail in the present matter since 29.6.2023.

10. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by the learned counsel for the parties.

11. I have heard learned counsel for the parties and

perused the record of the case.

12. However, it appears that it is a case of gang rape but it appears that FIR of the present case was lodged on 10.6.2023 and on 6.6.2023, i.e., four days before an FIR was lodged by the wife of co-accused Kaushindra against the son of informant and others under Section 376D IPC and other Sections and further bail application of co-accused Kaushindra has already been allowed by this Court and the case of applicant is at part with him.

13. Further, however, applicant is having criminal history of two other cases but his criminal history has been explained in the affidavit filed in support of the present bail application and he is in jail since 29.6.2023.

14. Therefore, considering the facts and circumstances of the case, discussed above, in my view, applicant is entitled to be released on bail.

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

16. Let the applicant-**Sandeep** 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.

17. 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.

18. 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 :- 30.10.2023

SKM