

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45484 of 2023

Applicant :- Ankit Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Akhilesh Kumar Mishra, Devendra Kumar

Counsel for Opposite Party :- G.A., J.P. Mishra

Hon'ble Ajay Bhanot, J.

By means of the bail application the applicant has prayed to be enlarged on bail in Case Crime No. 130 of 2021 at Police Station-Ratanpuri, District-Muzaffarnagar under Sections 147, 148, 149, 323, 324, 376-D, 504, 506 IPC. The applicant is in jail since 27.07.2023.

The bail application of the applicant was rejected by the learned trial court on 18.09.2023.

The following arguments made by Shri Akhilesh Kumar Mishra, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri J.P. Mishra, learned counsel for the informant and Shri Chandan Agrawal, learned AGA from the record, entitle the applicant for grant of bail:

1. Delay in taking out the proceedings under Section 156 (3) Cr.P.C. and the consequent lodgement of the F.I.R. in the facts and circumstances of this case are fatal to the prosecution case.
2. The F.I.R. is the result of village rivalry between the parties.

3. The applicant is a law abiding citizen who cooperated with the police investigations and had joined the trial.

4. The police authorities upon investigation did not find any implicative evidence against the applicant and a final report was filed exonerating him. A protest petition was filed. Thereafter, the applicant has been summoned by the trial court.

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

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

7. The applicant does not have any criminal history apart from this case.

8. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court 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- **Ankit Kumar** 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.

It has been contended on behalf of the informant that the police authorities failed to lodge the first information report despite the fact that the victim was taken to the police station after her treatment at the hospital.

The Senior Superintendent of Police, Muzaffarnagar to inquire into the lapses on the part of the police authorities and he shall take appropriate action as per law, if any.

Order Date :- 1.11.2023

Jaswant