

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 55701 of 2022

Applicant :- Mohd Jeeshan

Opposite Party :- State of U.P.

Counsel for Applicant :- Shiv Kumar Yadav, Digvijay Singh, Kunwar Mayank Singh, Sudhir Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Digvijay Singh, learned counsel for the applicant and Sri Ghanshyam Mishra, learned brief holder for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 207 of 2022, under Sections 452, 506, 376 IPC, Police Station- Talgram, District- Kannauj, during pendency of the trial in the court below.
3. FIR of the present case was lodged against the applicant under Sections 506, 452, 354(Kh) IPC and according to the FIR, applicant outraged the modesty of the victim i.e. informant of the case when she was slipping on the roof alongwith her mother.
4. Learned counsel for the applicant submitted that however, FIR of the present case was lodged by the victim herself but victim did not make any allegation of rape in it but when her statement was recorded under Section 161 Cr.P.C. then she started making allegation of rape and in the statement recorded under Section 164 Cr.P.C. also she made allegation of rape against the applicant and this fact clearly suggests that applicant has been falsely implicated in the present matter.
5. He further submitted that even as per the prosecutrix, applicant committed rape with her while she was slipping alongwith her mother on the roof and this fact clearly suggests that story narrated by the victim is totally false and no reliance can be placed on such version.
6. He further submitted that actually applicant has been made accused in the present matter due to enmity and he is in jail since

15.08.2022 i.e. for more than a year.

7. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the fact that victim of the case is major girl and she although, herself lodged FIR of the present case but in the FIR she did not make any allegation of rape against the applicant.

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

9. Considering the fact that FIR of the present case was lodged by the victim herself and in the FIR she did not make any allegation of rape against the applicant and applicant is in jail since 15.08.2022 i.e. for more than a years, in my view, applicant is entitled to be released on bail.

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

11. Let the applicant- **Mohd Jeeshan** 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.

12. 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.

13. 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 :- 1.11.2023

KK Patel