

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45730 of 2023

Applicant :- Vinay Pratap @ Phool Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Virendra Kumar, Pradeep Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Pradeep Kumar, learned counsel for the applicant and Sri Amar Nath Vishwakarma, learned Brief Holder for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 146 of 2023, under Sections 376, 452, 504, 506 IPC, Police Station Bindaki, District Fatehpur during pendency of the trial.

3. FIR of the present case was lodged against applicant and according to the FIR in the absence of the informant applicant after entering in his house tried to outrage the modesty of his wife and when informant arrived then he ran away.

4. Learned counsel for the applicant submitted that neither in the FIR nor in the statement of victim recorded under Section 161 Cr.P.C. there was any allegation of rape but when the statement of the victim under Section 164 Cr.P.C. was recorded after about one month then she started making allegation of rape against the applicant and this fact clearly suggests that victim on the instigation of her husband started making allegation of rape against the applicant.

5. He further submits that actually husband of the victim i.e. informant of the case procured a job on the basis of fake educational certificate and in this regard on 01.04.2023 applicant made a complaint of him to higher authorities and the complaint made by the applicant has been annexed as Annexure-2 to the affidavit and only due to this reason totally on the basis of false allegation, FIR of the present case was lodged on 14.04.2023 i.e. after two weeks.

6. He further submits that applicant is not having any criminal

history and in the present matter he is in jail since 14.04.2023.

7. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant. He further could not dispute the fact that victim of the case is major and married lady.

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

9. Although, victim in her statement recorded under Section 164 Cr.P.C. made allegation of rape against the applicant but she is major and married lady and there is no allegation of rape against the applicant in the FIR and in her statement recorded under Section 161 Cr.P.C.

10. Further, from Annexure-2, it appears that on 01.04.2023 applicant had made complaint against informant of the case i.e. husband of the victim and FIR of the present case was lodged on 14.04.2023 i.e. after two weeks, therefore, argument advanced by learned counsel for the applicant cannot be completely brushed aside at this stage.

11. Further, applicant is not having any criminal history and in the present matter he is in jail since 14.04.2023.

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

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

14. Let the applicant - **Vinay Pratap @ Phool Singh** 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.

15. 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.

16. 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

AK Pandey