

**Court No. - 66**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 45249 of 2023

**Applicant :-** Shailesh @ Shailesh Patel

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

**Counsel for Applicant :-** Vishveshwar Mani Tripathi, Vikas Yadav

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

**Hon'ble Ajay Bhanot, J.**

By means of the bail application the applicant has prayed to be enlarged on bail in Case Crime No. 366 of 2023 at Police Station- Gauri Bazar, District- Deoria under Sections 376, 452, 504, 506, IPC. The applicant is in jail since 14.09.2023.

The bail application of the applicant was rejected by the learned trial court on 09.10.2023.

The following arguments made by Shri Vishveshwar Mani Tripathi, learned counsel assisted by Sri Vikas Yadav, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Shrawan Kumar Dubey, learned AGA from the record, entitle the applicant for grant of bail:

1. Delay in lodgement of the F.I.R. in the facts and circumstances of this case is fatal to the prosecution case.
2. The victim and the applicant were intimate and they had a consensual physical relationship.
3. The FIR is a result of a relationship going awry.
4. The prosecution case set out in the FIR asserts that the

applicant entered in the house of the victim and committed rape with her.

5. There is no sign of forced entry in the house.

6. The FIR was lodged only to extort money from the applicant.

7. Material contradictions in the FIR, statements under Section 161 CrPC, Section 164 CrPC discredit the prosecution case.

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

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

10. 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- **Shailesh @ Shailesh Patel** 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.

**Order Date :- 27.10.2023**

Pravin