

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46471 of 2023

Applicant :- Ramayan Rajbhar

Opposite Party :- State of U.P.

Counsel for Applicant :- Sunita Chauhan, Ashutosh Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Ms. Sunita Chauhan, learned counsel for the applicant and Dr. S. B. Maurya, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.94 of 2023, under Section 376-D, 506 IPC, Police Station Bansdih Road, District Ballia, during pendency of the trial in the court below.
3. F.I.R. of the present case was lodged against applicant and his brother on 24.05.2023 through an application under Section 156(3) Cr.P.C. dated 08.02.2023 and according to the F.I.R., on 31.01.2023 at about 10:00 p.m. in the night when informant, who is a married lady aged about 45 years, had gone to ease herself applicant and his brother intercepted her and committed rape with her in the field.
4. Learned counsel for the applicant submits that entire allegation made against applicant is totally false and baseless and this fact is even evident from the F.I.R. as well as from both the statements of victim recorded under Sections 161

and 164 Cr.P.C.

5. She further submits that informant i.e. victim of the case is a married lady aged about 45 years and no reliance can be placed on the version narrated by her as her version appears to be quite improbable.

6. She further submits that due to previous enmity, applicant alongwith his brother has been made accused in the present matter.

7. She further submits that although as per the allegation, rape was committed on 31.01.2023 but in spite of that an application under Section 156(3) Cr.P.C. was moved on 08.02.2023 i.e. after a week and this delay even in moving the application under Section 156(3) Cr.P.C. clearly suggests that subsequently on the basis of false allegation an application was moved.

8. She further submits that applicant is having criminal history of a case, which has been explained in paragraph 18 of the affidavit and he is in jail in the present matter since 23.06.2023, therefore, he may be released on bail.

9. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that informant i.e. victim of the case is a married lady aged about 45 years and F.I.R. of the present case was lodged after four months through an application under Section 156(3) Cr.P.C. and even application under Section 156(3) Cr.P.C. was moved after a week.

10. I have heard learned counsel for both the parties and

perused the record of the case.

11. However, there is allegation of rape against the applicant in the F.I.R. as well as in her both the statements of victim recorded under Sections 161 and 164 Cr.P.C. but admittedly informant i.e. victim of the case is a married lady aged about 45 years and F.I.R. of the present case was lodged after four months through an application under Section 156(3) Cr.P.C. and even application was moved after a week.

12. Further, version narrated by the victim in the F.I.R. as well as in her both the statements recorded during investigation does not inspire confidence at this stage.

13. Further, however applicant is having criminal history of one case, which has been explained in paragraph 18 of the affidavit and he is in jail in the present matter since 23.06.2023.

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-**Ramayan Rajbhar**, 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 :- 23.11.2023

Zafar