

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46181 of 2023

Applicant :- Ramcharan Chauhan

Opposite Party :- State of U.P.

Counsel for Applicant :- Munna Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Munna Tiwari, learned counsel for the applicant and Sri R.N. Srivastava, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 463 of 2023, under Sections 376, 323, 504, 506, 406, 120-B IPC, Police Station- Shahpur, District- Gorakhpur, during pendency of the trial in the court below.
4. FIR of the present case was lodged against applicant and his parents through an application under Section 156(3) Cr.P.C. and according to the FIR, applicant is the *devar* of the informant and on 12.01.2022 he committed rape with her. It is further mentioned in the FIR that after the death of the husband of the informant, applicant and his parents turned her out from her matrimonial home. It is further mentioned in the FIR that applicant is sexually exploiting the informant for last three years.
5. Learned counsel for the applicant submitted that applicant is the *devar* of the informant and on the basis of false allegation, he has been made accused in the present matter alongwith his parents. He further submitted that actually after the death of the husband of the informant, some dispute arose between both the sides and after several years, on the basis of application under Section 156(3) Cr.P.C., applicant has been made accused in the present matter. He further submitted that story narrated by the victim is not reliable and no reliance can be placed on such version.
6. He further submitted that although, applicant is having criminal

history of single case but his criminal history has been explained in the supplementary affidavit and he is in jail since 17.09.2023.

7. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the argument of facts advanced by learned counsel for the applicant.

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

9. Considering the fact that applicant is the *devar* of the informant and FIR of the present case was lodged after several years through an application under Section 156(3) Cr.P.C., in my view, applicant is entitle 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- **Ramcharan Chauhan** 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