

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46412 of 2023

Applicant :- Hemant

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohammad Abid Ali

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia,J.

1. Heard learned counsel for the applicant, learned AGA and perused the record. None has appeared for the informant despite notice.

2. The FIR in question was lodged alleging that the applicant used to harass the daughter of the informant which was resisted and which resulted in an altercation. Subsequently, in the statement under Section 164 Cr.P.C., of the victim namely Chanchal, who is aged about 15 years, she stated that on the date of the offence at about 2 PM, the applicant entered the house of the informant where the younger sister of the applicant was standing and he slapped her and entered the house and thereafter, he slapped the victim also and got hold of her neck and when she tried to run, her clothes got teared.

3. In sum and substance, it was stated that the applicant had caused injury by slapping. In the light of the said submission, counsel for the applicant argues that *prima-facie* the offence under Section 354B IPC cannot be made out as there was no intention of disrobing any woman or an abetment to that effect. All the other offences are punishable for a term less than 7 years. The applicant has no criminal antecedent.

4. Learned AGA has opposed the bail application.

5. Considering the submission of the victim on record under Section 164 Cr.P.C., *prima-facie*, ingredients of Section 354B IPC are not made out, as such, the applicant who is in custody since 21.08.2023 and has no criminal antecedent, is entitled to be enlarged on bail. In view thereof, the application is **allowed**.

6. Let the applicant **Hemant** be released on bail in FIR No.512 of 2023, under Section 452, 504, 323, 506, 354B IPC & Section 7/8

of POCSO Act, P.S. Baheri, District Bareilly on his furnishing a personal bond with two sureties of Rs.25,000/- each to the satisfaction of court concerned with the following conditions:

- (a) The applicant shall execute a bond to undertake to attend the hearings;
- (b) The applicant shall not commit any offence similar to the offence of which he is accused or suspected of the commission; and
- (c) The applicant shall not directly or indirectly make any 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 to any police officer or tamper with the evidence.

Order Date :- 2.11.2023
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