

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46671 of 2023

Applicant :- Pawan

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Santosh Kumar Pandey,K.K.Rao

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No. 188 of 2023 at Police Station Chandaus, District Aligarh under Sections 376-D, 506 I.P.C. The applicant is in jail since 11.07.2023. The bail application of the applicant was rejected by the learned trial court on 20.09.2023.

The following arguments made by Shri Santosh Kumar Pandey, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Rishi Chaddha, 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 FIR is a result of a financial dispute between the applicant and the victim and her husband.
3. The applicant rendered financial help to the victim and her husband as the latter's husband is currently in jail.
4. Medical evidence to corroborate commission of rape by the applicant with the victim has not been produced by the

prosecution.

5. Medical report falsifies the prosecution case that the victim was dragged to the fields. There are no drag injuries in the medical report.

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

7. Learned counsel for the applicant claims congruency in role and seeks parity in relief granted to co-accused Tota Ram and Kala @ Janki who have been granted bail by this Court on 18.10.2023 in Criminal Misc. Bail Application No. 44379 of 2023 and order dated 27.10.2023 in Criminal Misc. Bail Application No. 45041 of 2023.

8. The applicant does not have any criminal history apart from the instant case.

9. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertake to join the trial 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- Pawan 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 :- 2.11.2023

Pravin