

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46642 of 2023

Applicant :- C K @ Shree Prakash

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Krishna Shankar

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. 395 of 2023 at Police Station Auraiya District Auraiya under Section 452, 376, 506 I.P.C. and Section 3/4 POCSO Act. The applicant is in jail since 20.06.2023.

The bail application of the applicant was rejected by the learned trial court on 28.07.2023.

The following arguments made by Shri Krishna Shankar, 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 applicant has been falsely nominated on account of money dispute between the applicant and the victim's mother.

3. The F.I.R. has been got lodged only to avoid paying the dues to the applicant.
4. The alleged eye witness to the incident Gaurav has not been named as a witness for the prosecution in the chargesheet.
5. Medical evidence to corroborate commission of rape by the applicant with the victim has not been produced by the prosecution.
6. The statements of the victim are tutored and are not supported by other evidence.
7. Prosecution evidence does not connect the applicant with the offence.
8. The applicant does not have any criminal history apart from this case.
9. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes 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- **C K @ Shree Prakash** 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

Dhananjai