

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46713 of 2023

Applicant :- Akshay @ Achhelal

Opposite Party :- State of U.P.

Counsel for Applicant :- Tinku Singh, Vijay Singh Gour

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot, J.

By means of the bail application the applicant has prayed to be enlarged on bail in Case Crime No. 0213 of 2023 at Police Station - Badagaon, District - Gomti (Commissionerate Varanasi) under Sections 323, 506, 354Ka, 354Kha, 427, 376, 452 IPC. The applicant is in jail since 18.07.2023.

The bail application of the applicant was rejected by the learned trial court on 27.09.2023.

The following arguments made by Shri Vijay Singh Gour, learned counsel and Ms. Tinku Singh, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Paritosh Kumar Malviya, learned AGA-I from the record, entitle the applicant for grant of bail:

1. Delay in lodgment of the F.I.R. in the facts and circumstances of the case is fatal to the prosecution case.
2. The F.I.R. arises out of a property dispute between the neighbours.
3. No allegation of commission of rape has been made by

the victim against the applicant in the F.I.R.

4. Subsequently aggravated and false allegations were made against the applicant in the statements of the victim under Section 161 Cr.P.C. and under Section 164 Cr.P.C. to save the failing prosecution case.

5. The injury report is belated and cannot be linked with the incident.

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

7. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court 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-Akshay @ Achhelal 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 :- 9.11.2023

Ashish Tripathi