

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46778 of 2023

Applicant :- Umair

Opposite Party :- State of U.P.

Counsel for Applicant :- Shiva Kant Srivastava, Pradeep Chauhan

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. 450 of 2023 at Police Station-Jiyanpur, District- Azamgarh under Sections 376D, 342, 323, 504 IPC. The applicant is in jail since 07.07.2023.

The bail application of the applicant was rejected by the learned trial court on 20.10.2023.

The following arguments made by Shri Shiva Kant Srivastava, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by and Shri Paritosh Kumar Malviya, learned AGA-I from the record, entitle the applicant for grant of bail:

1. Delay in lodgement of the FIR in the facts of the case is fatal to the prosecution case.
2. The victim was intimate with one Rafiq who is the nephew of the applicant.
3. The F.I.R. is the result of a relationship between the applicant's nephew and victim gone awry.

4. The applicant has been nominated as he is the uncle of the principal offender and to leverage criminal case to force the Rafiq who is his nephew to marry the victim.

5. Prosecution evidence does not connect the applicant with the offence.

6. The applicant has explained his criminal history. It is also contended that the applicant has become a soft target and a convenient scapegoat for the police authorities who nominated him in a number of false cases to burnish their professional credentials. The said cases do not have any bearing on the instant bail application.

7. 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- **Umair** 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 :- 3.11.2023

Jaswant