

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46785 of 2023

Applicant :- Sani Sagar

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Kumar Dubey

Counsel for Opposite Party :- G.A.,Jai Singh Yadav

Hon'ble Sameer Jain,J.

1. Heard Sri Ashutosh Shukla, learned Advocate, holding brief of Sri Ram Kumar Dubey, learned counsel for the applicant, Sri Jai Singh, learned counsel for the informant and Sri Imran Khan, learned AGA, for the State.

2. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.602 of 2023, under Sections 354, 376, 377 and 506 IPC, Police Station Majhola, District Moradabad during pendency of the trial.

3. FIR of the present case was lodged against the applicant and others on 12.8.2023 through an application under Section 156(3) Cr.P.C. moved in the month of February, 2023 and according to the FIR, about a year before applicant made sexual assault upon the informant and thereafter in her house he committed rape with her. It is further mentioned in the FIR that under the pressure and threat of applicant informant had gone with him and thereafter applicant and his family members started torturing her. It is further mentioned in the FIR that applicant and his family members prepared a video of forcible marriage of the informant with the applicant.

4. Learned counsel for the applicant submits that on the basis of

vague and false allegation applicant has been made accused in the present matter and actually marriage of applicant was performed with the informant but subsequently some dispute arose between both of them and thereafter FIR of the present case was lodged.

5. He further submits that allegation of rape made against the applicant in the FIR and in the statement of the victim recorded during investigation appears to be vague and story narrated by the victim appears to be absurd and no reliance can be placed to such hypothetical version.

6. He further submits that after a year of alleged rape the application under Section 156(3) Cr.P.C. was moved.

7. He further submits that admittedly victim, i.e, informant of the case is major lady.

8. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 2.9.2023.

9. Per contra, learned AGA as well as learned counsel for the informant although opposed the prayer for bail but could not dispute the argument on facts advanced by the learned counsel for the applicant.

10. I have heard learned counsel for the parties and perused the record of the case.

11. Considering the fact that the story narrated by the victim in the FIR as well as in both her statements recorded under Sections 161 and 164 Cr.P.C. during investigation appears to be vague and improbable and from the record it also reflects that she was wife of

applicant, in my view, applicant is entitled to be released on bail.

12. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

13. Let the applicant-**Sani Sagar** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make 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 any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

14. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

15. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 3.11.2023
SKM