

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47325 of 2023

Applicant :- Shadab

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohd Abdullah Tehami, Syed Mohammad Nawaz

Counsel for Opposite Party :- G.A., Chandra Shekhar Mishra

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Mohd Abdullah Tehami, learned counsel for the applicant, Sri Chandra Shekhar Mishra, learned counsel for the complainant, Shri S.P. Pandey, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No. 231 of 2023, under Sections 498-A, 354, 504, 323, 307, 325 IPC & 3/4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019, Police Station Gangoh, District Saharanpur, during the pendency of trial.
4. As per prosecution story, marriage of the applicant was solemnized with the informant as per Muslim Rights. The applicant along with his brother Mahtab is stated to have assaulted the informant on 18.08.2023 at about 9:30 P.M. and caused grievous injuries to her thereby breaking two ribs of her.
5. Learned counsel for the applicant has stated that he has nothing to do with the said offence. FIR itself is delayed by two days. There is no plausible explanation of the said delay caused. There are three more FIRs instituted against the applicant by the same parties, two of them instituted by the informant and one by her mother. Applicant has no other criminal history except the said cases. Learned counsel for the applicant has stated that anticipatory bail application of co-accused Mehtab has been rejected on the ground that the arguments tendered at bar pertain to regular bail application and not under 438 Cr.P.C. Learned counsel for the applicant has further stated that the injuries are not on vital part of the body.
6. Per contra, Shri Chandra Shekhar Mishra, learned counsel for the informant and learned A.G.A. has vehemently opposed the

bail application on the ground that the ribs are a vital organ of body and two of them has been broken by the applicant. He has also placed reliance on the statement of the doctor who has opined that the said injuries are grievous in nature, as such, he is not entitled for bail.

7. Considering the facts and circumstances of the case and after hearing the parties and taking into consideration the fact that the applicant is languishing in jail since 14.09.2023 and there is a delay of two days in lodging the FIR, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

8. Let the applicant- **Shadab**, who is involved in aforementioned case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with evidence.

(ii) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

9. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

10. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

Order Date :- 24.11.2023

Mukesh Kr.

(Krishan Pahal,J.)