

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48035 of 2023

Applicant :- Navneet

Opposite Party :- State of U.P.

Counsel for Applicant :- Virendra Singh Tomar,Rajiv Sisodia

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Rajeev Sisodia, learned counsel for the applicant and Sri Imran Khan, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 917 of 2023, under Sections 376, 452 IPC, Police Station- Kotwali City, District- Bijnor, during pendency of the trial in the court below.

3. FIR of the present case was lodged against applicant on 08.09.2023 and according to the FIR, on 22.07.2023 at about 9:00 p.m. in the night applicant after entering in the house of the informant committed rape with her and also prepared her obscene videos and photographs.

4. Learned counsel for the applicant submitted that applicant is the *cousin devar* of the informant and dispute with regard to property is pending between both the sides. He further submitted that as per the prosecution, rape was committed by the applicant on 22.07.2023 but FIR was lodged on 08.09.2023 i.e. after 48 days.

5. He further submitted that on 05.08.2023 mother of the applicant moved an application against the *husband* and *devar* of the informant before the police concerned and application moved by the mother of the applicant has been annexed as Annexure No. 6 to the affidavit. He further submitted that admittedly victim i.e. informant of the case is major and married lady and story narrated by her appears to be quite unconvincing.

6 . He further submitted that applicant is not having any criminal history and he is in jail since 06.10.2023.

7. Per contra, learned AGA although, opposed the prayer for bail

but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

9. However, in the FIR and in both the statements of the informant i.e. victim of the case, there is allegation of rape against the applicant but as per the prosecution, rape was committed by the applicant on 22.07.2023 and FIR was lodged on 08.09.2023 i.e. after more than one and half months.

10. Further, from the record, it reflects that applicant is the *cousin devar* of the informant i.e. victim of the case and dispute with regard to property appears to be pending between both the sides.

11. Further, even before lodgement of the FIR of the present case, mother of the applicant had moved an application to the police against the *husband* and *devar* of the informant on 05.08.2023 (Annexure No. 6).

12. Further, applicant is not having any criminal history and he is in jail since 06.10.2023.

13. Therefore, considering the facts and circumstances of the case discussed above, in my view applicant is entitled to be released on bail.

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

15. Let the applicant- **Navneet** 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.

16. 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.

17. 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 :- 21.11.2023

KK Patel