

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48484 of 2023

Applicant :- Danish

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Vijay Bahadur

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma,J.

1. Heard learned counsel for the applicant, learned AGA for the Stat and perused the record. None appeared on behalf of the informant though he has been sufficiently served.

2. By means of this bail application, applicant seeks bail in Case Crime No.240 of 2023, under Sections 354, 354Kha, 323, 506 IPC and Section 7/8 POCSO Act, Police Station Gonda, District Aligarh, during the pendency of trial.

3. Learned counsel for the applicant submitted that the applicant has falsely been implicated in the present case. It is further contended that the victim has refused to undergo her internal medical examination. There is contradiction in her statements under Sections 161 and 164 CrPC. It is also contended that the co-accused having similar role have already been enlarged on bail by co-ordinate Benches of this Court vide orders dated; (i) 27.10.2023 passed in Criminal Misc. Bail Application No.45178 of 2023 (Neeraj @ Neeru Vs. State of UP and 3 others); and (ii) 09.11.2023 passed in Criminal Misc. Bail Application No.43515 of 2023 (Vishambhar Vs. State of UP and 3 others), therefore, the applicant is also entitled to be enlarged on bail. There is no previous criminal history of the applicant. There is no likelihood of his abscondence or tampering with the evidence. The applicant is languishing in jail since 31.07.2023. In case the applicant is released on bail, he will not misuse the said liberty.

4. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions advanced by the counsel for the applicant, from the record.

5. Considering the facts, circumstances and the submissions made but without commenting on the merits of the case, this Court is of opinion that the applicant has made out a case for grant of bail. Accordingly, the bail application is allowed.

6. Let the applicant - **Danish**, involved in the aforesaid 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 the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence;

(iii) shall not pressurize the prosecution witnesses.

7. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 6.12.2023

Shahroz