

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48280 of 2023

Applicant :- Satyawan Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Raja Sahani

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Raja Sahani, learned counsel for the applicant and Sri Manoj Kumar Singh, learned brief holder for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 294 of 2023, under Sections 406, 323, 504, 506, 354, 376 IPC, Police Station- Rampur Karkhana, District- Deoria, during pendency of the trial in the court below.

3. FIR of the present case was lodged against applicant and his brother Vivek under Sections 406, 323, 504, 506, 354 IPC and according to the FIR, informant gave Rs. 90,000/- to the applicant and when she demanded back her money then applicant instead of returning her money made sexual assault upon her.

4. Learned counsel for the applicant submitted that neither in the FIR nor in the statement of the victim recorded under Section 161 Cr.P.C. there was any allegation of rape but when the statement of the victim i.e. informant of the case was recorded under Section 164 Cr.P.C. then she started making allegation of rape against the applicant. He further submitted that actually some dispute with regard to non-payment of alleged money, which was taken by the applicant from the informant, arose between both the sides and only due to this reason, applicant has been made accused in the present matter.

5. He further submitted that applicant is not having any criminal history and he is in jail since 17.09.2023

6. Per contra, learned AGA however, opposed the prayer for bail but could not dispute the fact that informant i.e. victim of the case is major lady and for the first time she made allegation of rape

against the applicant in her statement recorded under Section 164 Cr.P.C.

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

8. Considering the fact that victim i.e. informant of the case is major lady and for the first time she made allegation of rape against the applicant in her statement recorded under Section 164 Cr.P.C., in my view applicant is entitled to be released on bail.

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

10. Let the applicant- **Satyawan Kumar** 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.

11. 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.

12. 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 :- 28.11.2023

KK Patel