

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48426 of 2023

Applicant :- Hadeesh

Opposite Party :- State of U.P.

Counsel for Applicant :- Sunil Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

1. Heard Mr. Sunil Kumar Dubey, the learned counsel for applicant and the learned A.G.A. for State.

2. Perused the record.

3. This application for bail has been filed by applicant-Hadeesh, seeking his enlargement on bail in Case Crime No. 276 of 2023, under Sections 452, 323, 504, 506, 354, 354-B, 376, 511 IPC, Police Station-Sikandara Rao, District-Hathras during the pendency of trial.

4. Record shows that in respect of an incident, which is alleged to have occurred on 18.05.2023, a delayed FIR dated 19.05.2023 was lodged by first informant-Kahkashan (i.e. the prosecutrix) and was registered as Case Crime No. 276 of 2023, under Sections 452, 323, 354, 354-B, 504, 506 IPC, Police Station-Sikandara Rao, District-Hathras. In the aforesaid FIR, 4 persons namely - (1) Kabeer, (2) Kapil, (3) Hadeesh and (4) Rajiya have been nominated as named accused.

5. The gravamen of the allegations made in the FIR is to the effect that named accused entered the house of the first informant/prosecutrix and thereafter uttered abusive words. This was objected by the first informant and her mother. Upon this, named accused assaulted the first informant and her mother with Lathi, Danda, Sariya, Fist and Leg. Named accused Kabeer, Kapil and Hadeesh caught hold of the first informant and then plunked her down on the ground. The clothes of the prosecutrix were torn and her modesty was dislodged. The prosecutrix and her mother sustained injuries.

6. After above-mentioned FIR was lodged, Investigating Officer proceeded with statutory investigation of concerned case crime number in terms of Chapter-XII Cr.P.C. He first recorded the

statement of the prosecutrix under Section 161 Cr.P.C. Same is on record at page 27 of the paper book. The prosecutrix in her aforesaid statement has fully supported the FIR. Apart from above, the statement of the injured i.e. mother of the prosecutrix was also recorded, which is on record at page 29 of the paper book. This witness has also supported the FIR. Ultimately, the statement of the prosecutrix was recorded under Section 164 Cr.P.C. which is on record at page 31 of the paper book. She has rejoined her previous statement under Section 161 Cr.P.C. Investigating Officer examined other witnesses under Section 161 Cr.P.C. who have also supported the FIR. The learned A.G.A. with reference to the case diary submits that the first informant Kahkashan aged about 17 years and her mother Nahida were medically examined. Their Medico Legal Reports are on record at pages 14 and 15 of the case diary. They have sustained injuries. On the basis of above and other material collected by Investigating Officer during course of investigation, he came to the conclusion that complicity of 3 of the named accused namely Kabeer, Kapil and Hadeesh is established in the crime in question. He, accordingly, submitted the charge sheet dated 13.10.2023 whereby aforementioned named accused has been charge sheeted under Sections 452, 323, 504, 506, 354, 354-B, 376, 511 IPC.

7. Learned counsel for applicant submits that applicant is innocent. He has been falsely implicated in the crime in question. A trivial dispute has been exaggerated. There is nothing on record to show that the modesty of the prosecutrix was dislodged. On the above premise, the learned counsel for applicant contends that even though applicant is a named and charge sheeted accused yet he is liable to be enlarged on bail.

8. Even though applicant has criminal history to his credit but the same has been sufficiently explained. Applicant is in jail since 22.09.2023. As such, he has undergone more than 2 months of incarceration. The police report in terms of Section 173(2) Cr.P.C. has already been submitted. As such, the entire evidence sought to be relied upon by the prosecution against applicant stands crystallized. However, up to this stage, no such circumstance has emerged on record necessitating the custodial arrest of applicant during the pendency of trial. On the above premise, he submits that applicant is liable to be enlarged on bail. In case, the applicant is enlarged on bail, he shall not misuse the liberty of bail and shall co-operate with the trial.

9. Per contra, the learned A.G.A. has opposed the prayer for bail. He submits that since applicant is a named as well as charge

sheeted accused, therefore, he does not deserve any indulgence by this Court. The prosecutrix-Kahkashan is aged about 17 years and her mother Nahida who is aged about 40 years have sustained injuries as is evident from their medico legal reports. As such, occurrence is proved. As such, the applicant does not deserve any sympathy of this Court.

10. When confronted with above, the learned counsel for applicant could not overcome the same.

11. Having heard, the learned counsel for applicant, the learned A.G.A. for State, upon perusal of record, evidence, nature and gravity of offence, accusations made, complicity of accused and coupled with the fact that the applicant is a named and charge sheeted accused, the prosecutrix who is a young girl aged about 17 years and the mother of the prosecutrix an elderly woman have sustained injuries, the said fact is established from the Medico Legal Reports of the injured which are on record of the case diary, as such, the occurrence is proved, the learned counsel for applicant has submitted that the injuries received by the injured in the occurrence giving rise to present criminal proceedings are simple but he could not explain as to how the injured received injuries, therefore, irrespective of the varied submissions raised by the learned counsel for applicant in support of the present application for bail, but without making any comments on the merits of the case, this Court does not find any good or sufficient ground to enlarge the applicant on bail.

12. As a result, present application for bail fails and is liable to be rejected.

13. It is accordingly **rejected**.

Order Date :- 30.11.2023/Vinay