

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48848 of 2023

Applicant :- Ram Lal Yadav

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

Counsel for Applicant :- Janardan Yadav

Counsel for Opposite Party :- G.A.,Dinesh Kumar Yadav,Suneel Thekma

Hon'ble Sameer Jain,J.

1. Heard Sri Janardan Yadav, learned counsel for the applicant, Shri Shailendra Kumar, learned Advocate, holding brief of Sri Suneel Thekma, learned counsel for the informant and Sri Jhamman Ram, learned AGA-I, for the State.

2. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.495 of 2023, under Sections 323, 504, 506 and 376AB IPC and Section 5M/6 POCSO Act, Police Station Jeeyanpur, District Azamgarh during pendency of the trial.

3. FIR of the present case was lodged on 23.7.2023 against the applicant under Sections 323, 504, 506 and 354(Kha) IPC and according to the FIR, when daughter of the informant was working in the field applicant outraged her modesty and beaten her.

4. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and due to previous enmity applicant has been made accused in the present matter.

5. He further submits that in the FIR not even any date of the incident was mentioned and 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 her statement under Section 164

Cr.P.C. was recorded then she started making allegation of rape against the applicant.

6. He further submits that applicant and informant both are collaterals and earlier also in the year 2015 and 2017 informant implicated the applicant and his family members in false criminal cases.

7. He further submits that even mother of the applicant lodged FIR against the informant and others on 25.5.2023.

8. He further submits that all these facts are evident from Annexures 9 to 11 to the affidavit filed in support of the instant bail application.

9. He further submits that actually some dispute again arose between both the sides and after the dispute applicant was challaned under Sections 151/107/116 Cr.P.C. on 23.7.2023 and this fact is evident from Annexure-12 to the affidavit filed in support of the instant bail application.

10. He further submits that subsequently on the basis of false allegation due to enmity informant lodged FIR of the present case against the applicant.

11. He further submits that apart from the cases lodged by the informant against the applicant, applicant is not having any other criminal history to his credit and in the present matter he is in jail since 9.8.2022, i.e., for the last more than a year.

12. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that victim of the case is minor aged about 15 years and she in her statement

recorded under Section 164 Cr.P.C. stated that applicant committed rape upon her but both the learned counsels could not dispute the fact that from the record enmity between both the sides is admitted and earlier with regard to the same daste incident applicant was challaned under Sections 151/107/116 Cr.P.C.

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

14. Considering the argument advanced by the learned counsel for the applicant and the fact that enmity between both the parties are admitted and victim in her statement under Section 164 Cr.P.C. first time made allegation of rape against the applicant, in my view, applicant is entitled to be released on bail.

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

16. Let the applicant-**Ram Lal Yadav** 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.

17. 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.

18. 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 :- 29.11.2023
SKM