

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49231 of 2023

Applicant :- Shivshankar Yadav @ Sataru

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

Counsel for Applicant :- Kailash Nath,Lal Bahadur Yadav

Counsel for Opposite Party :- G.A.,Archana Singh,Ashutosh Upadhyay

Hon'ble Dr. Gautam Chowdhary,J.

1. Supplementary affidavit filed today by the learned counsel for the applicant is taken on record.
2. Heard learned counsel for the applicant, the learned A.G.A. for the State, Shri Ashutosh Upadhyay, learned counsel for the informant-opposite party No. 2, as well as Ms. Archana Singh, learned counsel for High Court Legal Service Committee-opposite party No. 4 and perused the record.
3. By means of the instant bail application, the applicant has sought for his enlargement on bail in Case Crime No. 407 of 2023, under Sections 376, 506 I.P.C. and Section 3/4 of Protection of Children From Sexual Offences Act, Police Station Line Bazar, District Jaunpur.
4. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in the present case. Learned counsel further submits that F.I.R. dated 11.08.2023 has been lodged on the basis of an application moved by the informant under Section 156(3) Cr.P.C. alleging therein that on 09.03.2023 at about 8:00 p.m. when 15 years old minor sister of complainant went to the agricultural field to ease herself the applicant caught her and committed her rape forcibly and also threatened her. In the F.I.R. it has also been alleged that when the informant along with his mother reached to the house of applicant for complaint then he by waving sword threatened them. Learned counsel for the applicant further submits that as per the prosecution version alleged incident took place on 09.03.2023, but the application regarding said incident was given to the concerned Superintendent of Police on 14.03.2023 without any plausible explanation, thereafter, informant moved application under Section 156(3)

Cr.P.C. dated 29.03.2023 before the court concerned for lodging of the F.I.R. Learned counsel for the applicant further submits that on 08.04.2023 a report was submitted by the police to the court concerned mentioning therein that earlier an N.C.R. No. 39 of 2023 under Section 323, 504 I.P.C. was lodged by the father of applicant against brother-in-law of the victim, thus, it has been argued by the learned counsel that present prosecution has been instituted with false and concocted story and applicant has falsely been implicated in the case. He next submits that applicant is in jail since 22.10.2023, having no criminal history.

5. Per contra, counsel for the opposite parties have vehemently opposed the prayer for bail by stating that victim is a minor girl aged about 15 years, her modesty has been outraged by the applicant in the agricultural field when she went to attend nature call.

6. Learned counsel for the informant further pointed out that incident took place on 09.03.2023 and the F.I.R. could be lodged after interference of this Court when informant approached this Court by filing an application under Section 482 Cr.P.C. No. 22728 of 2023 challenging the order dated 02.05.2023 passed by the court concerned rejecting the application moved under Section 156(3) Cr.P.C. and only on the order dated 22.06.2023 the F.I.R. could be lodged, which shows that applicant is a muscle man and on his behest F.I.R could not be lodged earlier. Learned counsel further pointed out that only to save his skin father of applicant got registered NCR dated 08.04.2023. It has further been argued that specific allegation has been made against the applicant in the F.I.R. as well as in the statements of victim recorded under Section 161 & 164 Cr.P.C., therefore, applicant does not deserve to be enlarged on bail.

7. Keeping in view submissions of learned counsel for the parties, gravity of offence, nature of allegations and all the attending facts and circumstances of the case and considering that there is specific allegation against the application committing rape of the victim, without expressing any opinion on the merits of the case, no case for bail has been made out.

8. Accordingly, the bail application of applicant-**Shivshankar Yadav @ Sataru**, is rejected.

Order Date :- 12.12.2023

Mustaqeem.