

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49456 of 2023

Applicant :- Manjesh Pathak

Opposite Party :- State of U.P.

Counsel for Applicant :- Shashank Shekhar

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Shashank Shekhar, learned counsel for the applicant and Sri R.N. Srivastava, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 104 of 2023, under Sections 376(2),(N), 323 IPC, Police Station- Garautha, District- Jhansi, during pendency of the trial in the court below.

3. FIR of the present case was lodged on 23.07.2023 against applicant and his family members and according to the FIR, under the false promise of marriage, applicant and his family members sexually exploited the informant and they also prepared a fake marriage certificate of the victim and applicant. It is further mentioned in the FIR that due to sexual exploitation, informant also became pregnant and applicant and other accused persons caused her miscarriage and on 20.07.2023, applicant and other accused persons made assault upon the informant and turned her out from the house.

4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and this fact is even evident from the FIR and from both the statements of the victim recorded during investigation. He further submitted that story narrated by the informant i.e. victim of the case does not inspire any confidence.

5. He further submitted that however, there is allegation that due to sexual exploitation by the applicant, victim became pregnant but there is no evidence in this regard on record. He further submitted that admittedly victim is major lady and her consent is quite apparent from the record. He further submitted that actually applicant and victim were in consensual relationship but

subsequently some dispute arose between them and thereafter FIR of the present case was lodged after two years.

6. He further submitted that applicant is not having any criminal history and he is in jail since 26.07.2023.

7. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

9. However, there is allegation of rape and sexual exploitation against the applicant in the statements of the victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. but admittedly informant i.e. victim of the case is major lady and her consent is apparent from the record.

10. Further, applicant is not having any criminal history and he is in jail since 26.07.2023.

11. Therefore, considering the facts and circumstances of the case discussed above, in my view applicant is entitled to be released on bail.

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

13. Let the applicant- **Manjesh Pathak** 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.

14. 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.

15. 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 :- 21.11.2023

KK Patel