

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50607 of 2023

Applicant :- Narsingh Chauhan

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashutosh Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Shri Ashutosh Kumar Pandey, learned counsel for the applicant and Shri Ravi Kant Kushwaha, learned A.G.A. for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.97 of 2023, under Sections 498-A, 354, 307, 323, 504, 506, 376 IPC, Police Station Jansa, District Varanasi, during pendency of the trial in the court below.

3. FIR of the present case was lodged on 10.05.2023 against applicant and his family members and according to the F.I.R., marriage of the informant was performed with the elder brother of the applicant on 18.04.2012 and after solemnization of the marriage, applicant and his family members started torturing her for demand of dowry and several times they have turned her out from her matrimonial home. It is further mentioned in the F.I.R. that on 13.01.2023 applicant made sexual assault upon the informant after entering in her room.

4. Learned counsel for the applicant submits that applicant is devar of the informant and on the basis of false allegation of rape, he has been made accused in the present matter and even from perusal of

the FIR and the statement of the informant, it appears that a matrimonial dispute is pending between both the parties.

5. He further submits that neither in the FIR, which was lodged by the informant herself, nor in her statement recorded under Section 161 Cr.P.C., there was any allegation of rape and she made only allegation of sexual assault against the applicant but when her statement under Section 164 Cr.P.C. was recorded, she stated that applicant committed rape with her and this fact clearly suggests that on the basis of false allegation of rape, applicant has been made accused in the present matter.

6. He further submits that applicant is not having any criminal history and he is in jail in the present matter since 19.07.2023.

7. Per contra, learned AGA 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 both the parties and perused the record of the case.

9. Considering the fact that applicant is devar of the informant and matrimonial dispute is pending between both the parties and for the first time, informant made allegation of rape against applicant in her statement recorded under Section 164 Cr.P.C., in my view, applicant is entitled to be released on bail.

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

11. Let the applicant- **Narsingh Chauhan**, 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.

12. 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.

13. 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

Zafar