

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49765 of 2023

Applicant :- Nadeem

Opposite Party :- State of U.P.

Counsel for Applicant :- Vivek Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Shri Vivek Singh, learned counsel for the applicant and Shri Pradeep Kumar, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.0206 of 2023, under Section 376 IPC, Police Station Delhi Gate, District Meerut, during pendency of the trial in the court below.
3. F.I.R. of the present case was lodged on 17.10.2023 against applicant, under Section 376 I.P.C. and according to the F.I.R., applicant after enticing the informant has taken her in the hotel and thereafter committed rape with her. It is further mentioned in the F.I.R. that applicant disclosed his identity as Pawan but when on phone he disclosed his name as Nadeem then informant came to know that applicant by concealing his religion committed rape with her.
4. Learned counsel for the applicant submits that entire allegation made against applicant is totally false and baseless and admittedly informant i.e. victim of the case is a major lady aged about 26 years and her consent is quite apparent

from the record.

5. He further submits that since beginning victim was aware about the fact that applicant belongs to Muslim community but subsequently some dispute arose between both of them and she started making allegation that applicant by concealing his religion developed physical relationship with her.

6. He further submits that applicant is having no criminal history and he is in jail in the present matter since 18.10.2023, therefore, he may be released on bail.

7. Per contra, learned AGA opposed the prayer for bail and submits that applicant by concealing his religion cheated the informant and made physical relationship with her, therefore, considering the conduct and intention of the applicant, he should not be released on bail.

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

9. However, as per allegation, applicant by concealing his religion committed rape with informant i.e. victim of the case but admittedly victim is a major lady aged about 26 years and her consent is quite apparent from the F.I.R. as well as from her both the statements recorded during investigation.

10. Further, as per victim when applicant received a phone call then he disclosed his name to the caller as Nadeem and thereafter, she came to know about his religion but from the F.I.R., it appears that before receiving the phone call, physical

relationship has been developed between both of them, therefore, I find force in the argument advanced by learned counsel for the applicant that it is hard to believe that earlier informant could not become aware about the religion of the applicant even at the time of her intimacy with the applicant.

11. Further, applicant is having no criminal history and he is in jail in the present matter since 18.10.2023.

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

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

14. Let the applicant-Nadeem, 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.

19. 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.

20. 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 :- 22.11.2023

Zafar