

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 58256 of 2022

Applicant :- Ankul

Opposite Party :- State Of U.P. Through Its Secretary (Home)

Counsel for Applicant :- Pradeep Kumar Singh, Rajendra Prasad Maury

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Rajendra Prasad Maurya, learned counsel for the applicant and Dr. S.B. Maurya, learned AGA-I for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 166 of 2022, under Sections 354, 506, 376 IPC, Police Station Rajpura, District Chitrakoot during pendency of the trial.
3. FIR of the present case was lodged against applicant on 10.09.2022 under Sections 354, 506 IPC and according to the FIR applicant outraged the modesty of the informant while she was going to ease herself.
4. Learned counsel for the applicant submitted that in the FIR there was no allegation of rape and it was lodged under Sections 354, 506 IPC although FIR was lodged by the victim herself but when her statement under Section 161 Cr.P.C. was recorded then she also started making allegation of rape. He further submits that in the statement recorded under Section 164 Cr.P.C. also victim stated that applicant committed rape with her.
5. He further submits that victim is 46 years old lady and applicant is 20 years old boy and story narrated by her appears to be unconvincing and no reliance can be placed on such version. He further submits that only due to village enmity, applicant has been made accused in the present matter. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 17.10.2022 i.e. for more than a year.
6. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that applicant was about 20 years old boy at the time of incident and victim was 46 years old and victim in the FIR did not make any allegation of rape and applicant is in jail for more than a year.

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

8. Although, victim in the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. made allegation of rape against the applicant but FIR of the present case was lodged by the victim herself and in the FIR she did not make any allegation of rape and only made allegation of outraging the modesty against the applicant.

9. Further, applicant appears to be about 20 years old boy and victim is admittedly 46 years old lady. Further, applicant is not having any criminal history and in the present matter he is in jail since 17.10.2022 i.e. for more than a year.

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

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

12. Let the applicant - **Ankul** 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.

13. 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.

14. 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 :- 28.10.2023
AK Pandey