

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50542 of 2023

Applicant :- Iqram Khan

Opposite Party :- State of U.P.

Counsel for Applicant :- Ehtesham Afsar Khan

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri E.A. Khan, learned counsel for the applicant and Sri Shatrughna Yadav, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 574 of 2023, under Sections 498-A, 376, 506 IPC & 3/4 D.P. Act, Police Station- Bhojipur, District- Bareilly, during pendency of the trial in the court below.

3. FIR of the present case was lodged on 06.09.2023 against applicant and his family members and according to the FIR, marriage of the informant was performed with the younger brother of the applicant on 03.03.2021 and after marriage, applicant made sexual assault upon her and on 18.06.2023, he committed rape with her.

4. It is further mentioned in the FIR that on 20.06.2023, applicant and his other family members including husband of the informant turned her out from her matrimonial home for want of Rs. 2.5 lacs and Bullet motorcycle.

5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and only being her *jeth*, informant implicated him in the present matter. He further submitted that actually after about two months of her marriage, on 21.05.2023, informant left her matrimonial home and on 26.05.2023 her husband i.e. brother of the informant filed a criminal complaint against the informant and her family members in the Court of A.C.J.M.-First, Bareilly, which has been annexed as Annexure No. 2 to the affidavit and, therefore, it appears that some dispute between husband and wife was pending and only due to this reason, after about four months, on 06.09.2023, FIR of the present case was lodged and false

allegation of rape has been leveled against the applicant, who is *jeth* of the informant.

6. He further submitted that story narrated by the victim appears to be quite improbable and no reliance can be placed on such version.

7. He further submitted that applicant is not having any criminal history and he is in jail since 10.10.2023.

8. Per contra, learned AGA however, opposed the prayer for bail but could not dispute the fact that FIR of the present case was lodged after several months and before lodgement of the FIR of the present case, husband of the informant i.e. brother of the applicant filed a criminal complaint against the informant and her family members before A.C.J.M.-First, Bareilly.

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

10. Considering the fact that applicant is the *jeth* of the informant and matrimonial dispute of the victim is pending with her husband even before the lodgement of the FIR of the present case, and FIR of the present case was lodged after four months, 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- **Iqram Khan** 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 :- 28.11.2023

KK Patel