

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51953 of 2023

Applicant :- Mohammad Saddam

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashish Pandey, Satya Prakash Rathor

Counsel for Opposite Party :- G.A.

Hon'ble Dr. Gautam Chowdhary, J.

1. Heard learned counsel for the applicant, learned A.G.A for the State and perused the record.
2. The prosecution story in brief is that the on 12.09.2023, the victim was going to market. on the way, the applicant was tracking her behind and was insisting her to talk him, failing which, he would inform about her to her matrimonial house, thereafter he asked as to where she was going, which was replied by her to hospital, thus the applicant had put pressure to drop her to hospital, on threatening the victim had had gone with her but the applicant instead of taking her to hospital took her to Basoran Mohalla and had threatened her to talk her.
3. Learned counsel for the applicant submits that initially F.I.R. was registered under Section 354 (Gha), 506 I.P.C. and that the victim in her statement recorded under Section 161 Cr.P.C. has specifically answered "No" to the question as to whether the applicant has committed wrong with her but in her statement recorded under Section 164 Cr.P.C. the victim has levelled allegation of rape against the applicant. It is thus contended that there are contradiction in the statements of the victim recorded under Section 161 and 164 Cr.P.C. Learned counsel further submits that the victim is major and in the medical legal examination report, the doctor opined that there are no sign of

sexual violence. Learned counsel further submits that the applicant has been falsely roped in the instant case due to village parti bandi and that no offence has been committed by the applicant. It is thus contended that the applicant is entitled for bail. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. He next submits that applicant is languishing in jail since 16.09.2022 having no criminal history.

4. Per contra, learned A.G.A. has opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence. In case the applicant is released on bail he will again indulge in similar activities and will misuse the liberty of bail.

5. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties, nature of evidence, and all attending facts and circumstances of the case, without expressing any opinion on merits of the case, this Court is of the view that the applicant has made out a case for bail. Hence the bail application is allowed.

6. Let applicant **Mohammad Saddam** involved in Case Crime No. 280 of 2023 under Sections 366, 376, 506 and 354 (Gha) I.P.C., Police Station Kulpahar, District Mahoba be released on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the

following conditions:-

I. The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence and the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

II. The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

III. In case, the applicant misuses the liberty of bail and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

IV. The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

7. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 5.12.2023/S.Ali