

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52298 of 2023

Applicant :- Ram Chandra @ Bauwa

Opposite Party :- State of U.P.

Counsel for Applicant :- Siya Ram Sahu

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Shri Siya Ram Sahu, learned counsel for the applicant and Shri Amar Nath Vishwakarma, learned Brief Holder for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.136 of 2023, under Sections 376-D, 506 IPC, Police Station Kabrayee, District Mahoba, during pendency of the trial in the court below.

3. FIR of the present case was lodged on 27.06.2023 through an application under Section 156(3) Cr.P.C. dated 05.06.2023 against applicant and co-accused Deepu (his brother-in-law) and according to the FIR, on 23.05.2023 applicant and his brother-in-law committed rape upon the informant, who is widow aged about 42 years by taking her near the canal behind the bushes.

4. Learned counsel for the applicant submits that entire allegations made against applicant are totally false and baseless and even from the FIR and both the statements of the informant i.e. victim of the case recorded under Sections 161 and 164 Cr.P.C., it appears that a false story has been set up by the victim.

5. He further submits that admittedly informant i.e. victim of the case is a widow lady aged about 42 years and it is hard to believe that if she did not know the applicant and his brother-in-law then she would have joined their company and no reliance can be placed on the version as narrated by the victim.

6. He further submits that FIR of the present case was lodged after more than a month through an application under Section 156(3) Cr.P.C. and even application under Section 156(3) Cr.P.C. was moved after about two weeks.

7. He further submits that actually victim is residing alongwith one Chandra Karan Yadav as his concubine and some dispute arose between the sister of the applicant and Bhupendra and Pushpendra, who are relative of Chandra Karan Yadav and sister of the applicant lodged and FIR against them on 31.05.2023, which has been annexed as Annexure No.7 to the affidavit and only due to this reason, applicant and co-accused Deepu has been made accused in the present matter.

8. He further submits that applicant is not having any criminal history and he is in jail in the present matter since 10.08.2023.

9. Per contra, learned Brief Holder opposed the prayer for bail but could not dispute the fact that FIR of the present case was lodged after more than a month through an application under Section 156(3) Cr.P.C. and even application under Section 156(3) Cr.P.C. was moved after about two weeks.

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

11. However, informant i.e. victim of the case made allegation of

rape against the applicant and his brother-in-law in the FIR as well as in her both the statements recorded under Sections 161 and 164 Cr.P.C. but FIR of the present case was lodged after more than a month through an application under Section 156(3) Cr.P.C. and even application under Section 156(3) Cr.P.C. was moved after about two weeks.

12. Further, admittedly informant i.e. victim of the case is a widow lady aged about 42 years and story narrated by her does not appear to be convincing and from the record, the enmity between both the sides is apparent.

13. Further, applicant is not having any criminal history and he is in jail in the present matter since 10.08.2023.

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

15. Let the applicant- **Ram Chandra @ Bauwa**, 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.

16. 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.

17. 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 :- 6.12.2023
Zafar