

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51580 of 2023

Applicant :- Rajendra Prasad Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Rabindra Bahadur Singh

Counsel for Opposite Party :- G.A.,Kunwar Bijendra Mohan Singh,Sriprakash Rai

Hon'ble Sameer Jain,J.

1. Heard Sri Rabindra Bahadur Singh, learned counsel for the applicant and Sri Kunwar Tejendra Bahadur, learned AGA, for the State.

2. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.214 of 2023, under Sections 323, 376, 504 and 506 IPC, Police Station Machhali Shaher, District Jaunpur during pendency of the trial.

3. FIR of the present case was lodged on 21.8.2023 against the applicant and his family members through an application under Section 156(3) Cr.P.C. dated 26.7.2023 and according to the FIR, applicant is the father-in-law of the informant and he on 10.7.2022 in the absence of her husband committed rape upon her and again on 10.6.2023 tried to commit rape upon her and on 30.6.2023 again applicant committed rape upon his daughter-in-law, i.e., informant and when informant and her husband raised objection then applicant turned out them from his house and since then informant along with her husband is living in her paternal home.

4. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and on the basis of false allegation of rape and sexual exploitation he has

been made accused in the present matter.

5. He further submits that as per allegation applicant first time committed rape upon the informant, i.e., his daughter-in-law on 10.7.2022 but no complaint was made by her in this regard and on 26.7.2023,i.e., after one year an application under Section 156(3) Cr.P.C. was moved and this fact itself shows that entire story narrated by victim is totally false.

6. He further submits that even from the FIR and statement of the victim recorded under Sections 161 and 164 Cr.P.C. it appears that she cooked up a false story and no reliance can be placed on such version.

7.He further submits that actually with regard to property a dispute is pending between applicant and his son , i.e., husband of the informant and his son lodged a civil suit for injunction against the applicant and his other family members on 3.7.2023 as Suit No. 815 of 2023, plaint of which has been annexed as Annexure-8 to the affidavit filed in support of the instant bail application.

8. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 10.10.2023.

9. Per contra, learned AGA although opposed the prayer for bail but could not dispute the fact that a civil suit for permanent injunction has also filed by the husband of the informant against the applicant and his family members.

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

11. Applicant is the father-in-law of the informant, i.e., victim of the case and she in the FIR as well as in her both the statements recorded under Section 161 and 164 Cr.P.C. made allegation of rape against him but as per allegation applicant committed rape on 10.7.2022 but FIR of the present case was lodged on 21.8.2023, i.e., after more than a year through application under Section 156(3) Cr.P.C. and even application under Section 156(3) Cr.P.C. was moved on 26.7.2023, i.e., after more than a year.

12. Further, story narrated by victim in the FIR as well as in her both the statements recorded under Sections 161 and 164 Cr.P.C. does not appear to be convincing.

13. Further, from Annexure-8 to the affidavit filed in support of the instant bail application it appears that a civil suit with regard to property is pending between both the sides and husband of the informant, i.e., son of applicant filed a civil suit for permanent injunction against the applicant and other family members on 3.7.2023, i.e., even before moving the application under Section 156(3) Cr.P.C.

14. Further, applicant is not having any previous criminal history and in the present matter he is in jail since 10.10.2023.

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

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

17. Let the applicant-**Rajendra Prasad Yadav** 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.

18. 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.

19. 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 :- 2.12.2023
SKM