

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51721 of 2023

Applicant :- Rampal @ Kartar

Opposite Party :- State of U.P.

Counsel for Applicant :- Raj Kumar Vaishya

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Raj Kumar Vaishya, learned counsel for the applicant and Dr.S.B.Maurya/Sri Jhamman Ram, learned AGA-I, 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.240 of 2023, under Sections 452 and 376 IPC, Police Station Khudaganj, District Shahjahanpur during pendency of the trial.

3. FIR of the present case was lodged against the applicant on 25.7.2023 and according to the FIR, in the absence of the informant applicant committed rape with his wife when she was alone in her house. It is further mentioned in the FIR that when informant arrived at his home then applicant after threatening him ran away.

4. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and applicant is about 70 years old and infirm person and it is hard to believe that he would commit rape with the victim, who was about 40 years old healthy women.

5. He further submits that FIR of the present case was lodged after more than two weeks and this fact itself shows that due to previous enmity applicant has been made accused in the present matter.

6. He further submits that actually applicant runs a grocery shop and informant used to buy articles from his shop but he did not pay the amount of articles which he bought and only due to non-payment of alleged item dispute arose between both the sides and thereafter false FIR has been lodged by him against the applicant.

7. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 4.8.2023.

8. Per contra, learned AGA opposed the prayer for bail and submits that victim in her both the statements recorded under Sections 161 and 164 Cr.P.C. made allegation of rape against the applicant but he could not dispute the fact that FIR of the present case was lodged after about 17 days and applicant is aged about 70 years and on the other hand victim was about 40 years old married lady.

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

10. However, wife of the informant, i.e., victim of the case made allegation of rape against the applicant in her both the statements recorded under Sections 161 and 164 Cr.P.C. but FIR of the present case was lodged after about 17 days and from the record it reflects that applicant is aged about 70 years and on the other hand victim is major and married lady aged about 40 years and, therefore, defence taken by applicant cannot be completely brushed aside at this stage.

11. Further, applicant is not having any previous criminal history and in the present matter he is in jail since 4.8.2023.

12. Therefore, considering the facts and circumstances of the case

discussed above, in my view, applicant is entitled to be released on bail.

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

14. Let the applicant-**Rampal @ Kartar** 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.

15. 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.

16. 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 :- 4.12.2023/SKM