Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52446 of 2023

Applicant :- Sonu Yadav @ Brijesh Yadav
Opposite Party :- State of U.P.
Counsel for Applicant :- Raghvendra Prakash
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. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in the present case. Learned counsel for the applicant further submits that as per the version of the F.I.R. the victim is a married woman aged about 27 years. Learned counsel further submits that the F.I.R. was lodged by the victim herself on 14.09.2023 regarding an incident of previous night occurred at about 8:00 a.m. by stating that when she went outside her house to search her son the applicant dragged her into sugarcane agricultural field and committed her rape forcibly and also threatened her. Learned counsel for the applicant further submits that though in her statements recorded under Sections 161 & 164 Cr.P.C. the victim has also made allegation of rape against the applicant as has been made in the F.I.R., but in the medical examination of the victim no spermatozoa was seen on her vaginal smear although her medical examination was conducted promptly, thus, allegation of rape made by the victim is not supported by the medical evidence and the applicant has falsely been implicated in the case. 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 27.09.2023, having no criminal history.

3. 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.

4. After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, without expressing any opinion on merits of the case, this Court is of the view, that the applicant may be enlarged on bail.

5. Let applicant-**Sonu Yadav @ Brijesh Yadav**, involved in Case Crime No. 183 of 2023, under Sections 376, 506 I.P.C., Police Station Tahbarpur, District Azamgarh, be enlarged 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 will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

(ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when 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.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be issued and if 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 I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is

deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 229-A IPC.

6. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail in accordance with law.

7. The bail application is **allowed.**

Order Date :- 7.12.2023
Mustaqeem.

Digitally signed by :-
MOHD MUSTAQEEM KHAN
High Court of Judicature at Allahabad