

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53109 of 2023

Applicant :- Jaganveer @ Bunty

Opposite Party :- State of U.P.

Counsel for Applicant :- Satya Dheer Singh Jadaun, Bhavesh Singh Jadaun

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Sri Ganga Prasad Mishra, Advocate filed his power on behalf of the informant which is taken on record.
2. Heard Sri Satya Dheer Singh Jadaun, learned counsel for the applicant and Sri G. P. Mishra, learned counsel for the informant and Sri Jhamman Ram, learned AGA-I for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 217 of 2023, under Sections 376, 120 B, 313, 506 IPC, Police Station Bah, District Agra, during pendency of the trial in the court below.
4. FIR of the present case was lodged against the applicant and others on 17.10.2023 and according to the FIR in the year 2020 applicant developed friendship with the informant who is a major lady and thereafter on 7.2.2022, he made physical relationship with her against her wish under the promise to perform marriage with her and when she conceived then she caused her miscarriage.
5. It is further mentioned in the FIR that subsequently applicant settled his marriage with some other lady.
6. Learned counsel for the applicant submitted that admittedly victim of the case is a major lady and from the FIR and her both the statements recorded under sections 161 and 164 Cr.P.C. it reflects that she was consenting party but it appears that after sometime some dispute arose between applicant and victim and thereafter FIR of the present case was lodged.
7. He further submitted that in her statement recorded under section 164 Cr.P.C. victim stated that if applicant is ready to perform marriage with her then she will withdraw the instant

matter.

8. He further submitted that although there is allegation that applicant caused miscarriage to the victim but except the bald and verbal allegation, there is no other evidence against the applicant in this regard on record.

9. He further submitted that as per allegation, first time against the wishes of the informant, applicant committed rape upon her in the month of February, 2022 but in spite of that FIR was lodged in the month of October, 2023 i.e. after more than one and half years.

10. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 10.11.2023.

11. Per contra, learned AGA as well as learned counsel for the informant however opposed the prayer for bail but could not dispute the arguments on facts advanced by learned counsel for the applicant.

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

13. Considering the fact that victim of the present case is major lady and FIR of the present case was lodged after several months and from the record it appears that she was consenting party, in my view, applicant is entitled to be released on bail.

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

15. Let the applicant-**Jaganveer @ Bunt**y, 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 :- 12.12.2023

Ankita