

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53533 of 2023

Applicant :- Gurmeet@ Arun Kumar

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Chandrajeet

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Sri Shatrughan Yadav, learned AGA apprised the Court that on 7.12.2023 notice has been served to the informant. Despite service of notice, none appeared on behalf of the informant.
2. Heard Sri J.P. Yadav Advocate holding brief of Sri Chandrajeet, learned counsel for the applicant and Sri Shatrughan Yadav, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 255 of 2023, under Sections 376(2)n, 354 Gha, 506 IPC, section 5L/6 POCSO Act and Section 3(2)Va SC/ST Act, Police Station Hapur Dehat, District Hapur, during pendency of the trial in the court below.
4. FIR of the present case was lodged against the applicant on 23.7.2023 under section 354 D, 506 IPC and Section 3(2)Va SC/ST Act and according to the FIR applicant harassed the daughter of the informant and also threatened her that if she will perform marriage with some other person then he will eliminate her and also viral her photograph.
5. Learned counsel for the applicant submitted that neither in the FIR nor in the statement of the victim recorded under section 161 Cr.P.C. there was any allegation of rape but when the statement of the victim was recorded under section 164 Cr.P.C. then she stated that on 21.12.2021 applicant has taken her to the hotel and committed rape upon her and this fact clearly suggests that on the basis of false allegation applicant has been made accused in the present matter.
6. He further submitted that applicant is having no criminal history and he is in jail in the present matter since July, 2023.
7. Per contra, learned AGA opposed the prayer for bail but could not dispute the arguments on facts advanced by learned counsel for the applicant.
8. I have heard learned counsel for the parties and perused the

record of the case.

9. Considering the fact that neither in the FIR nor in the statement of the victim recorded under section 161 Cr.P.C. she made any allegation of rape against the applicant and for the first time she made allegation of rape against the applicant in her statement recorded under section 164 Cr.P.C. and even in the statement recorded under section 164 Cr.P.C. she stated that about one and a half year before in December, 2021 applicant committed rape upon her in the hotel, in my view, applicant is entitled to be released on bail.

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

11. Let the applicant-**Gurmeet@ Arun Kumar** 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.

12. 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.

13. 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 :- 13.12.2023

Ankita