

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53349 of 2023

Applicant :- Indrajeet Paswan

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashwani Kumar Pathak

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Ashwani Kumar Pathak, learned counsel for the applicant and Sri Imran Khan, 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.559 of 2023, under Section 376 IPC, Police Station Khorabar, District Gorakhpur during pendency of the trial.
3. FIR of the present case was lodged against the applicant and his brother on 18.7.2023 and according to the FIR, victim, i.e., informant of the case is the 'bhabhi' of applicant and co-accused and in the absence of her husband both committed rape upon her about a year before.
4. Learned counsel for the applicant submits that applicant is 'dever' of the informant and on the basis of false allegation of rape he has been made accused in the present matter along with his another brother.
5. He further submits that even the story narrated by the victim in the FIR as well as in the statements recorded during investigation appears to be false and no reliance can be placed on such version.
6. He further submits that as per the victim, rape was committed about a year before and therefore, FIR of the present case was

lodged after one year and this inordinate delay in lodging the FIR itself shows that entire story narrated by victim is false.

7. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 7.11.2023.

8. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by the learned counsel for the applicant.

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

10. Considering the fact that applicant is 'dever' of the informant, i.e., victim of the case and FIR of the present case was lodged after one year and applicant is not having any previous criminal history and in the present matter he is in jail since November, 2023, in my view, applicant is entitled to be released on bail.

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

12. Let the applicant-**Indrajeet Paswan** 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.

13. 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.

14. 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
SKM