

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 24 of 2023

Applicant :- Lallan

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home, Lko. And 3 Others

Counsel for Applicant :- Dheeraj Awasthi, Ananya Govind Sharma, Krishna Kant Yadav, Lalit Kumari, Mayank Dwivedi, Rakesh Singh, Ran Vijay Yadav

Counsel for Opposite Party :- G.A., Vivek Shukla

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Shri Dheeraj Awasthi, learned counsel for the accused/applicant, Shri Vivek Shukla, learned counsel for opposite party no.2/ complainant as well as learned A.G.A. for the State and perused the record.

2. This bail application has been moved by the accused/applicant- **Lallan** for grant of bail, in Case Crime No. 485/2022, under sections 376, 147, 323, 506 IPC and Section 3/4 POCSO Act, Police Station Purwa, District Unnao, during trial.

3. Learned counsel for the accused-applicant while pressing the bail application submits that the accused-applicant has falsely been implicated in the instant case and he has not committed any offence as claimed by the prosecution. The FIR of this case has been lodged by the informant, who is the wife of an accused named in the FIR lodged by the wife of the applicant, namely, Shivani on 13.8.2022 at Police Station Purwa, District Unnao, under Sections 147, 148, 323, 506, 308 IPC, wherein apart from the husband of the informant of the instant case, six other persons were named along with four unknown persons and allegations have been made of assaulting the applicant with 'Lathi, Danda and Kulhari' and grievous injuries were sustained by the applicant and as a counter blast of the same, the instant case has been lodged on false and frivolous facts to pressurize the applicant to make compromise in that case.

4. It is further submitted that in the First Information Report nor in the statements of victims recorded under Section 161 Cr.P.C. there is no mention of commission of rape and allegations of only molestation have been levelled while in statement of victims recorded under Section 164 Cr.P.C. both

the victims have stated that instant applicant has placed his finger in their private parts.

5. It is further submitted that though two superficial injuries are shown to have been sustained by one of the victim but the same appears to be manufactured as they are simple in nature and also do not corroborate the date and time of the incident.

6. It is also submitted that the applicant is in jail in this case since 23.10.2022 and he is not having any criminal history. Charge sheet in this case has already been submitted and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty.

7. Learned A.G.A., however, opposes the prayer for bail but could not dispute the other factual submissions made by the learned counsel for the accused-applicant.

8. Shri Vivek Shukla, learned counsel for opposite party no.2/ complainant vehemently submits that there are two victims in this case and one of the victim has also sustained injuries and having regard to the act of the applicant of placing finger in the private parts of the victims, the applicant is not entitled to be released on bail.

9. Having heard learned counsel for the parties and having perused the record, it is reflected that prior to lodging of the FIR of the instant case, a First Information Report was lodged by the wife of the applicant against the husband of the informant of this case (father of both victims) and many other persons. The applicant is shown to have sustained grievous injuries in the incident and defence of the applicant appears to be that the instant FIR is nothing but the counter blast of the same as the allegation of only placing finger in the private parts of the victims has been alleged. It is submitted on behalf of the applicant that other co-accused persons of this case have been granted bail by trial court, however, no copy of bail order pertaining to the same has been placed on record. The applicant is in jail in this case since 23.10.2022 and is not having any criminal history. Charge sheet in this case has already been submitted. His presence may be secured before the trial court by placing adequate conditions.

10. Keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits and demerits of the case, I am of the considered view that applicant has made out a case for bail.

The bail application is **allowed**.

11. Let the applicant- **Lallan** involved in the aforesaid case be released on bail on furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

12. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

13. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

14. Observations made herein-above are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

Order Date :- 18.10.2023

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