Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 916 of 2023

Applicant :- Shoaib
Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.
Counsel for Applicant :- Ramakar Shukla
Counsel for Opposite Party :- G.A.,Dileep Kumar Tiwari,Md.Khurshed Ahmad

Hon'ble Mohd. Faiz Alam Khan,J.

1. Heard Mr. Ramakar Shukla, learned counsel for the accused-applicant, learned A.G.A. for the State as well as Mr. Dileep Kumar Tiwari, learned counsel for the complainant/informant, and perused the record.

2. This bail application has been moved by the accused/applicant- **Shoaib** for grant of bail in Case Crime No.0205 of 2022, under Sections 376D, 325, 336, 504, 506 and 342 IPC lodged at Police Station Gauriganj, District Amethi, during trial.

3. Learned counsel for the accused-applicant, while pressing the bail application, submits that the applicant has been falsely implicated in this case and a simple road traffic accident has been given colour of sexual assault.

4. It is further submitted that the FIR of this case has been lodged by the victim herself on 15.06.2022 with respect to an incident which had allegedly occurred on 06.06.2022 and it is imputed that the prosecutrix was dragged into house by the co-accused where sexual assault was committed on her by both. Attention of this Court has also been drawn towards Annexure-2 to the bail application which is an OPD Prescription of the victim of date 06.06.2022 of district hospital, Gauriganj, District Amethi wherein she is shown to have met with an accident and the 'history of R.T.A.' has been shown and some treatment appears to have been provided to her. A copy of the register of out-patients of the district hospital has also been placed on record wherein at entry no. 2256 name of the victim has been shown and ahead of this entry 'road traffic accident' has been mentioned. Further elaborating his points, learned counsel appearing for the applicant has drawn attention of this Court towards the fact that after lodging of the FIR the prosecutrix was medically examined in depth and neither any

injury nor any abnormality has been found on her person which may even prima facie suggest commission of sexual assault with her and, therefore, the story of commission of rape has been cooked up afterwards in order to pressurize the applicant as after meeting with a simple road traffic accident the prosecutrix was demanding rupees five lakh from the applicant and co-accused person and when they showed their inability to pay this amount, this false case has been cooked up against them. It is further submitted that in fact in the said road traffic accident it was co-accused - Shakil who had sustained injuries and was treated by casting plaster on his right leg. Medical examination report of the co-accused is placed as Annexufe-7 to the bail application. It is vehemently submitted that the facts, as stated by the prosecutrix in her statements recorded under Sections 161 and 164 CrPC, are patently absurd, concocted and could not be believed.

5. It is next submitted that applicant is languishing in jail in this case since 16.06.2022 and he is not having any previous criminal history. Charge sheet in this case has already been filed and there is no apprehension that after being released on bail he may flee from the course of law or may otherwise misuse the liberty.

6. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed a heinous offence and, therefore, he is not entitled to be released on bail.

7. Learned counsel for the complainant/informant also opposes the bail plea of the applicant on the ground that the prosecutrix has been subjected to rape by the applicant and co-accused person in a brutal manner and she has also sustained injuries, therefore, the applicant is entitled to be released on bail.

8. Perusal of record, in the background of submissions advanced by the learned counsel for the parties, would reveal that the prosecutrix has lodged the FIR of the incident on 15.06.2022 which had allegedly occurred on 06.06.2022. The allegations of dragging her into a house and committing sexual assault have been levelled. Learned counsel for the applicant has drawn attention of this Court towards various documents of date 06.06.2022 in order to show that the prosecutrix in fact had met with a road traffic accident and in that accident it was co-accused -Shakil, who had sustained injuries, but the prosecutrix was pressurizing the applicant and co-accused person to part rupees five lakh and when they showed their inability to provide this amount to her, the incident of road traffic accident has been converted into an incident of sexual assault. It has

been highlighted with considerable force that even after lodging of the FIR the prosecutrix was medically examined in depth, however, no injury of any kind has been found on her person, which belies the whole prosecution story. The applicant is languishing in jail in this case since 16.06.2022 without any previous criminal antecedents. Charge sheet in this case has also been filed and the presence of the applicant may be secured before the trial court by placing adequate conditions.

9. 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 of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus **allowed**.

10. Let the accused/applicant- **Shoaib**, involved in above-mentioned case, be released on bail on his 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.

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

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

13. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression on the merits of the case.

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[Mohd. Faiz Alam Khan, J.]

Order Date :- 22.11.2023
MVS/-

Digitally signed by :-
MANOJ VIKRAM SINGH CHAUHAN
High Court of Judicature at Allahabad,
Lucknow Bench