

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1763 of 2023

Applicant :- Roopesh

Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Home Civil
Secrt. Lko.

Counsel for Applicant :- Bhanu Pratap Kushwaha,Ravindra Kumar
Shukla,Shiv Kumar Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Heard Mr. Ravindra Kumar Shukla, learned counsel for the accused-applicant, 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- **Roopesh** for grant of bail in Case Crime No.0304 of 2022, under Sections 328, 506, 368, 370, 376 and 342 IPC lodged at Police Station Thangaon, District Sitapur, during trial.

3. Learned counsel for the accused-applicant, while pressing the bail application, submits that it is case of false implication and the role of the applicant has been confined to the tune that he has taken custody of the prosecutrix in lieu of Rs.50,000/- from co-accused, Deepak alias Deepu Maurya. The main conspirator of the crime, Deepak alias Deepu Maurya, against whom the allegation of giving the custody of the prosecutrix to the applicant has been levelled, has been enlarged on bail vide order dated 28.06.2023 passed by the coordinate Bench of this Court in Criminal Misc. Bail Application No.8014 of 2023. It is also submitted that another co-accused, namely, Manno alias Dhanno Devi has also been enlarged on bail by another coordinate Bench of this Court vide order dated 27.04.2023 passed in Criminal Misc. Bail Application No.5626 of 2023 and the role of the applicant is on better footing from them. It is also submitted that even if the statements of the prosecutrix recorded under Sections 161 and 164 CrPC are believed, it is the applicant who is stated to have left the prosecutrix at the place of her choice. Thus, the role of the applicant in the crime is on better footing than those co-accused persons, who have already been enlarged on bail. It is further submitted that the applicant is languishing in jail in this case since 22.09.2022. The applicant is not having any previous criminal history 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.

4. 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.

5. Having heard learned counsel for the parties and having perused the record, it is reflected that the main conspirator of the crime, co-accused Deepak alias Deepu Maurya and co-accused Manno alias Dhanno Devi have already been enlarged on bail by coordinate Benches of this Court. The role of the applicant appears to be lesser than those co-accused, who have already been enlarged on bail. The applicant is languishing in jail in this case since 22.09.2022 without any previous criminal antecedents and the presence of the applicant may be secured before the trial court by placing adequate conditions.

6. 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**.

7. Let the accused/applicant- **Roopesh**, 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.

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

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

10. 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.

[Mohd. Faiz Alam Khan, J.]

Order Date :- 1.11.2023 MVS/-