

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2402 of 2023

Applicant :- Sonu Singh @ Ramashankar Singh

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

Counsel for Applicant :- Arvind Kumar Pandey, Anand Kumar Srivastava, Km. Saumya Tiwari, Sachin Upadhyay, Shivendra S Singh Rathore

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Learned AGA informs that he has procured complete instructions in the matter including upto date case diary.
2. Heard Shri Arvind Kumar Pandey, 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- **Sonu Singh @ Ramashankar Singh** for grant of bail, in Case Crime No. 43 of 2022, under Sections 343, 328, 376-D, 366 IPC, Police Station Maigalganj, District Kheri, during trial.
3. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. The First Information Report of this case has been lodged by the mother of the prosecutrix on 7.3.2022, wherein allegation of abducting the victim has been levelled against three accused persons including the applicant, however, on being recovered the statements of the prosecutrix/ victim was recorded under Sections 161 and 164 Cr.P.C. wherein she stated to have been abducted by the applicant and other co-accused persons on 5.3.2022 when she was going to School by making her unconscious and thereafter she was allegedly kept in a room for 15 days where she was continuously raped. Thereafter, she was taken to Punjab and was kept in kasba Sahnewal. However, one day she got an opportunity to contact the neighbors on which co-accused Karanjeet assaulted her and also intimidated her by showing a country made pistol and she was rescued by the landlord of the room and it was on her insistence, the landlord Manpreet had informed her family members and she then returned with them to her house.

4. Highlighting the above facts, it is vehemently submitted that the allegations as have been levelled in the statement of the prosecutrix recorded under Sections 161 and 164 Cr.P.C. are patently false, absurd and could not be believed, infact she was having an affair with the co-accused Karanjeet and was also living with him in Punjab and if the statement of the prosecutrix are read conjointly it would emerge that it was the co-accused Karanjeet with whom she was living at Punjab and specific role of assault has been attributed to him.

5. It is further submitted that the manner in which the abduction of the informant/ victim has been shown, could not be believed on the touch stone of probability and it appears that she was a consenting party and was having an affair with the co-accused Karanjit. The allegations as levelled in the statement of the prosecutrix are not corroborated with the medical evidence as no injury or any abnormality of any kind has been found therein. The age of the prosecutrix at the relevant point of time was admittedly more than 18 years, thus she was major.

6. It is also submitted that the applicant is in jail in this case since 01.05.2023 and he is not having any criminal antecedent. 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. on the other hand submits that the manner in which the offence has been committed in itself is sufficient to reject the prayer of bail of the applicant, more-so allegation of rape has been levelled by the prosecutrix in her statements recorded under Sections 161 and 164 Cr.P.C.

8. Having heard learned counsel for the parties and having perused the record, it is reflected from the record that pertaining to the incident which is allegedly occurred on 5.3.2022, the First Information Report has been lodged by the mother of the victim on 7.3.2023. The victim was incidentally recovered by her family members on 3.7.2022 and she was taken to the police station where her statements was recorded under Section 161 and thereafter before the Magistrate under Section 164 Cr.P.C., wherein she alleged commission of sexual assault on her by the three accused persons named in the FIR including the applicant. The defence of the applicant appears to be that the prosecutrix was having an affair with co-accused Karanjeet and they were living at Punjab. The attention of this Court has been drawn towards the statements of the prosecutrix recorded under Sections 161 and 164 Cr.P.C. wherein though in the first part, the allegation of commission of sexual assault has been

levelled against all the accused persons while in the later part of the statement, commission of sexual assault at Punjab has been specifically attributed to the co-accused Karanjeet. In the considered opinion of this court, the case of the applicant appears to be distinguishable with the role of co-accused Karanjeet. Admittedly the victim was major and there is no abnormality or injury etc. has been found in her medical examination. The applicant is in jail in this case since 01.05.2023 and he is not having any criminal antecedent. Charge sheet in this case has already been submitted. His presence 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 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**.

10. Let the applicant- **Sonu Singh @ Ramashankar Singh** 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.

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 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 :- 23.11.2023

Muk