

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2665 of 2023

Applicant :- Sameer (Sameer 45 As Per F.I.R)

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

Counsel for Applicant :- Syed Husain Abbas, Abdul Muquit Faridi, Dr. Ajai Pratap Singh Chauhan, Irshad Ali

Counsel for Opposite Party :- G.A., Prince Singh

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Dr. Ajai Pratap Singh Chauhan, learned counsel for the accused-applicant as well as learned A.G.A. for the State, Shri Prince Singh, learned counsel for the informant/complainant and perused the record.

2. This bail application has been moved by the accused/applicant- **Sameer** for grant of bail, in Case Crime No.291 of 2022, under Sections 323, 504, 506, 452, 376 I.P.C. and 3/5 of the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, Police Station Itaunja, District Lucknow, 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 he has not committed any offence as claimed by the prosecution.

4. It is further submitted that F.I.R. of this case has been lodged by the prosecutrix herself alleging therein that on 08.09.2022 the applicant while in intoxicated state abused and humiliated the prosecutrix and started assaulting her and also pressurized her to reside with him as his concubine on the pretext of making viral her obscene videos. It is also stated that the prosecutrix is being sexually assaulted and is also being pressurized to convert her religion. In the statement of the prosecutrix recorded under Sections 161 and 164 Cr.P.C., she stated that the incident had occurred on 08.09.2022 at about 11:30pm. and also that for the last four years, she is being continuously sexually assaulted and also being pressurized to convert her religion.

5. Highlighting the above facts, it is vehemently submitted on behalf of the applicant that a small incident of *maarpeet* or verbal altercation has been given the colour of sexual assault and the F.I.R. is nothing but the result of professional revelry,

which is existing between the applicant and brother of the prosecutrix, who are indulge in some trade.

6. It is further submitted that even if the case of the prosecution as is emerging from the statements of the prosecutrix recorded under Sections 161 and 164 Cr.P.C. is taken on its face, it could not be believed that for the last four years the prosecutrix was being continuously sexually assaulted and no complaint of any kind has been made by her to any public authority moreover no video or photograph etc. has been recovered by the investigating officer during the course of investigation.

7. It is next submitted that applicant is in jail in this case since 23.09.2022 and he is not having any criminal history, charge-sheet in this case has already been submitted and there is no apprehension that after being released on bail the applicant may flee from the course of law or may otherwise misuse the liberty.

8. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and having regard to the material/evidence available against the applicant, he is not entitled to be released on bail, but could not controvert the other factual submissions made by learned counsel for the applicant.

9. Shri Prince Singh, learned counsel for the informant/complainant vehemently opposes the prayer of bail of the applicant on the ground that the prosecutrix was not only sexually assaulted but was also pressurized to marry the applicant by changing her religion and also to adopt the practice of his religion, therefore, applicant is not entitled to be released on bail.

10. Having heard learned counsel for the parties and having perused the record, it is evident that the prosecutrix has herself lodged the F.I.R. and the case as is emerging from the F.I.R. as well as from her statements recorded under Sections 161 and 164 Cr.P.C. is to the tune that on 08.09.2022 at about 11:30pm.-02:00am., the applicant came at her shop and started quarreling with her brother and also humiliated her by saying that she is his concubine. It is also alleged that for the last four years, the prosecutrix is being continuously raped by the applicant. Medical report of the prosecutrix is clean and no abnormality or injury of any kind has been noticed therein. The defence of the applicant appears to be that a small incident of quarrel has been aggravated and given the shape of sexual assault. It is also the defence of the applicant that for the last four years, the prosecutrix is stated to have been continuously sexually assaulted, but no complaint of any kind has been made to any

public authority. Applicant is in jail in this case since 23.09.2022 without any previous criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions.

11. Having regard to the overall facts and circumstances of the case and 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**.

12. Let the accused/applicant- **Sameer** 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.

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

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

15. 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 of this Court on the merits of the case.

Order Date :- 31.10.2023

Anupam S/-