

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 5301 of 2023

Applicant :- Sahil

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

Counsel for Applicant :- Rizwanul Haque Ansari, Dheerendra Kumar Singh, Vijay Kumar Asthana

Counsel for Opposite Party :- G.A., Amjad Siddiqui

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Shri Rizwanul Haque Ansari, 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- **Sahil** for grant of bail, in Case Crime No. 07/2023, under Section 376/506 IPC and 3/4 D.P. Act, Police Station Kotwali Dehat, District Sitapur, 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 prosecutrix/ victim herself with the allegation that for the last two years from before lodging of the FIR, the applicant was continuously sexually assaulting her at her house and when she and her family members insisted for solemnization of marriage, he started demanding a motorcycle, fridge, colour T.V., Almira, Cooler and Rs. 50,000/- and when the informant refused to pay any dowry, the applicant declined to marry her. These allegations were fortified by the prosecutrix in her statements recorded under Sections 161 and 164 Cr.P.C.
4. Learned counsel for the applicant while drawing the attention of this Court towards the above facts, submits that all the allegations levelled by the prosecutrix against the applicant in her statements recorded under Sections 161 and 164 Cr.P.C. and in the FIR are patently false, absurd and could not be believed and the real facts are to the tune that the marriage of the applicant was fixed with the prosecutrix, however some differences had arisen between the two families and the marriage could not be materialized and when the marriage was broken, a false FIR has been lodged against the applicant.
5. It is vehemently submitted that admittedly the prosecutrix is

aged about 20 years and even if the allegations levelled by her in her statements are taken on its face, she appears to be a consenting party and thus as per the version of the prosecutrix also no offence has been committed by the applicant.

6. Attention of this Court is also drawn on the injury report of the prosecutrix wherein no abnormality or any sign of use of force or penetration has been found and it is vehemently submitted that the allegations levelled by the prosecutrix orally are not found any corroboration with any medical evidence. The applicant is in jail in this case since 12.02.2023 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., however, opposes the prayer for bail but could not dispute the other factual submissions made by the learned counsel for the accused-applicant.

8. Having heard learned counsel for the parties and having perused the record, it is transpired that the age of the prosecutrix at the relevant point of time was 20 years, thus she was a major and her marriage is stated to have been fixed with the applicant, however the same could not be materialized. The medical report of the prosecutrix including injury report or pathological reports are clean. The defence of the applicant is that his marriage was fixed with the prosecutrix, however due to some differences which had arisen between the two families, the marriage could not be solemnized and in order to pressurize the applicant and his family members a false case has been cooked up. The applicant is in jail in this case since 12.02.2023 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- **Sahil** 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 :- 21.11.2023

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