

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8748 of 2022

Applicant :- Awadhesh Gupta S/O Ram Tirath Gupta

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lucknow And 3 Others

Counsel for Applicant :- Prashansa Singh, Vishva Nath Pratap Singh

Counsel for Opposite Party :- G.A., Manish Soni

Hon'ble Brij Raj Singh, J.

1. Heard Shri Vishva Nath Pratap Singh, learned counsel for the applicant, Shri Manish Soni, learned counsel for the complainant and Shri Vipul Kumar Singh, brief holder for the State and perused the record.

2. The present bail application has been filed by the applicant **Awadhesh Gupta** with a prayer to enlarge him on bail in Case Crime No.0026 of 2022, under Sections 504, 506, 376 I.P.C., and Section 3/4 POCSO Act, Police Station Karaundi Kala, District Sultanpur.

3. Learned counsel for the applicant has submitted that FIR was lodged by mother of the prosecutrix and as per FIR, cause of action appears to be on 27.05.2021 whereas FIR has been lodged on 19.02.2022 much belated. Learned counsel further submitted that in the statement under Section 164 Cr.P.C., the prosecutrix had deposed that physical relation was established out of her will as such it is a case of consent. It has been submitted that as per radiological report, age of the prosecutrix is 19 years and in view of the aforesaid, the applicant is entitled to be released on bail. The applicant has no criminal history. The applicant is in jail since 24.03.2022.

4. Learned counsel for the complainant opposed the prayer for bail and submitted that in the statement under Section 164 Cr.P.C. the prosecutrix has levelled allegation of rape against the applicant and co-accused Satyam and his bail has been rejected by coordinate bench of this Court vide order dated 05.09.2022 in Criminal Misc. Bail Application No.5261 of 2022. He further submitted that the prosecutrix before the trial court has also deposed that she was raped by the applicant and co-accused. It has been further submitted that the entire witnesses have been examined and the final argument is going on and judgment is going to be delivered within short span of time as such it is not a fit case for bail.

5. Learned AGA appearing for the State has reiterated the same argument as advanced by learned counsel for the complainant.

6. After hearing learned counsel for the parties, considering the argument that prosecutrix and other

witness have supported the prosecution case before the trial court; argument that trial court is in the final stage; argument that bail of co-accused having similar role has been rejected therefore, I am of the opinion that it is not a fit case for bail.

7. The application for bail of applicant **Awadhesh Gupta**, is hereby, rejected.

Order Date :- 28.11.2023

Pks