

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8256 of 2023

Applicant :- Amit Lodhi

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

Counsel for Applicant :- Anuj Pandey, Anand Kumar Yadav, Ashish Kumar Singh, Farooq Ayoob

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Shri Farooq Ayoob, 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- **Amit Lodhi** for grant of bail, in Case Crime No. 107 of 2023, under Section 376 IPC, Police Station Kotwali Rudauli, District Ayodhya, during trial.
3. Learned counsel for the accused-applicant while pressing the bail application submits that the accused-applicant has falsely been implicated in the instant case and he has not committed any offence as claimed by the prosecution.
4. It is further submitted that the FIR of this case has been lodged by the prosecutrix/victim herself alleging therein that on 02.10.2022, she was sexually assaulted by the applicant and on 27.2.2023, when the applicant was again attempting to commit rape, she asked him to first solemnize marriage, to which he refused and returned to the house of her maternal uncle namely, Jagram and thereafter, the sister of the applicant arrived at the house of the prosecutrix/victim on 27.02.2023 and abused her and also physically assaulted. Thereafter, the family members of the applicant also refused to solemnize marriage of the applicant with the prosecutrix/victim.
5. It is further submitted that the statements of the prosecutrix/victim were recorded under Sections 161 & 164 CrPC wherein she has alleged commission of rape by the applicant on the pretext of marrying her.
6. Highlighting the above facts, it is vehemently submitted that the incident as shown by the prosecutrix/victim in the FIR and

the narration of events as stated in her statements recorded under Sections 161 & 164 CrPC, are self-contradictory.

7. Elaborating further, it is submitted that in her statements recorded under Sections 161 & 164 CrPC, the prosecutrix/victim had admitted in categorical terms that for the last two years, she was on talking terms with the applicant and in the same period, sexual relations were also made by the applicant with the prosecutrix/victim and therefore, even if the allegations, as levelled in the statement of the prosecutrix/victim recorded under Sections 161 & 164 CrPC, are believed on its face, she appears to be a consenting party and since her age as per educational credentials was 24 years at the date and time of the incident, in fact, no offence has been committed by the applicant.

8. It is further submitted that the applicant is in jail in this case since 19.03.2023 and he is not having any criminal antecedents. Charge sheet in the matter has already been filed 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.

9. Learned A.G.A., on the other hand, submits that having regard to the manner in which the offence has been committed, the applicant is not entitled for any relief.

10. Having heard learned counsel for the parties and having perused the record, it is reflected that the age of the prosecutrix/victim is admittedly 24 years and thus, she was major at the relevant point of time. If the FIR which has been lodged by the prosecutrix/victim herself and her statements recorded under Sections 161 & 164 CrPC are read conjointly, it may be inferred that the prosecutrix/victim was regularly talking to the applicant and they were also cohabiting. The allegations and counter allegations have been levelled by the parties with regard to the consent of the prosecutrix/victim and the defence of the applicant is that the prosecutrix/victim was a consenting party, while the case of the prosecution is that the consent of the prosecutrix/victim has been obtained by the applicant by extending false promise of marriage. Appreciation of evidence with regard to the disputed factual matrix would be better left for appreciation of the trial court which would be done after providing an opportunity to lead evidence to the parties. The applicant is in jail in this case since 19.03.2023 without any criminal history. Charge sheet in the matter has already been filed. His presence could be secured before the trial court by placing any adequate conditions.

11. Thus at this stage, where the personal liberty of the applicant is at stake, in the considered opinion of this Court, keeping in view the statements of the prosecutrix/victim recorded under Sections 161 & 164 CrPC coupled with her age i.e. 24 years, a case of bail is made out in favour of the applicant. Thus, the bail application moved by the applicant is **allowed**.

12. Let the applicant- **Amit Lodhi** 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.

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 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 :- 29.11.2023

Shravan