

**Court No. - 14**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 8460 of 2023

**Applicant :-** Sunil

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

**Counsel for Applicant :-** Ashok Kumar Srivastava, Ram Singh

**Counsel for Opposite Party :-** G.A.

**Hon'ble Mohd. Faiz Alam Khan, J.**

1. Rejoinder affidavit filed by learned counsel for the applicant is taken on record.
2. Heard learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.
3. This bail application has been moved by the accused/applicant- **Sunil** for grant of bail, in F.I.R./Case Crime No. 13 of 2023, under Sections 323, 366 and 376 I.P.C., Police Station Udaipur, District Pratapgarh, during trial.
4. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. The prosecutrix after being recovered, in her statement has clearly stated to have accompanied the applicant with her free wish and will and had gone to Mumbai and remained there as the wife of the applicant and as she was aged about 20 years at the time of the alleged incident, no offence in fact has been committed by the applicant.
5. Attention of this Court has also been drawn on the copy of an agreement allegedly executed between the applicant and the prosecutrix with regard to their 'live-in-relationship'.
6. It is also submitted that the victim in her statement recorded under Section 164 Cr.P.C. has stated that an obscene video has been filmed by the applicant and was also made viral. However, no such video or photograph has been collected by the investigating officer during the course of investigation. Applicant is languishing in jail in this case since 06.04.2023 and he is not having any criminal history. Charge sheet in this case has already been filed and there is no apprehension that after being released on bail he may flee from the course of law or may otherwise misuse the liberty.

7. 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, therefore, he is not entitled to be released on bail.

8. Perusal of the record would reveal that the age of the prosecutrix is about 20 years. She in her statements admitted to have accompanied the applicant with her own wish and will. They also stated to have cohabited. However, subsequently it is alleged that the applicant was physically assaulting her. Allegations with regard to the making viral one obscene video of the prosecutrix has also been highlighted, however, no such video is claimed to have been recovered during the course of investigation. There is an agreement, a copy of which has been placed on record with regard to the 'live-in-relationship' of the applicant and prosecutrix. Applicant is languishing in jail in this case since 06.04.2023 without any criminal antecedents. Charge sheet in this case has also been filed and the presence of the applicant 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 of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus **allowed**.

10. Let the accused/applicant- **Sunil** 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.

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 by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression on the merits of the case.

**Order Date :- 17.11.2023**

Praveen