

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9335 of 2023

Applicant :- Ankit

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

Counsel for Applicant :- Anil Kumar Yadav,Rajesh Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Supplementary affidavit filed on behalf of the applicant is taken on record.
2. The State along with its counter affidavit has enclosed a written information given by the concerned Police Station to the opposite party no.2 as C.A.1, thus it appears that opposite party no.2 has sufficiently been served, however, he is not represented.
3. Heard Shri Rajesh Kumar Shukla, learned counsel for the accused/applicant as well as learned A.G.A. for the State and perused the record.
4. This bail application has been moved by the accused/applicant- **Ankit** for grant of bail, in Case Crime No. 0040/2023, under Section 506, 376-D IPC and Section 5 (g)/6 POCSO Act, Police Station Nawabganj, District Pratapgarh, during trial.
5. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. The FIR of this case has been lodged by the mother of the prosecutrix on 9.3.2023, however, the role of molestation/outraging modesty of the victim has been assigned to co-accused Ritesh and there is no whisper of any other overt act committed by the applicant and his presence is only shown on the spot.
6. It is further submitted that after many days of the incident the statement of the prosecutrix was recorded under Section 164 Cr.P.C. wherein she appears to have improved the case to the tune that co-accused Ritesh has also placed his finger in her private part. However, placing finger in the private part of the

prosecutrix has been attributed to co-accused Ritesh, who has been granted bail by a Coordinate Bench of this Court, vide order 11.12.2023 passed in CrI. Misc. Bail Application No. 11243 of 2023. A criminal history of one case has been alleged against the applicant, however, the same has been explained in paragraph 4 of the supplementary affidavit dated 11.10.2023, filed today. The applicant is in jail in this case since 14.03.2023 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. on the other hand submits that the applicant is accused of committing heinous offence, therefore, he is not entitled to be released on bail.

8. Having heard learned counsel for the parties and having perused the record, it is reflected that in the FIR as well as in the statement of the prosecutrix recorded under Section 161 Cr.P.C. the allegation is only to the tune of molestation and overt act of molestation has only been confined to the co-accused Ritesh, however, in the statement recorded under Section 164 Cr.P.C. she has developed the case that co-accused Ritesh has also placed his finger in her private part, however, he has been granted bail by a Coordinate Bench of this Court. The applicant is in jail in this case since 14.03.2023. Criminal history of one has been adequately explained in paragraph 4 of the supplementary affidavit filed today. 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- **Ankit** 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 :- 19.12.2023

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