

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9743 of 2023

Applicant :- Suraj @ Surya Prakash

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

Counsel for Applicant :- Janendra Kumar Verma

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Heard Shri Janendra Kumar Verma, 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- **Suraj @ Surya Prakash** for grant of bail, in Case Crime No.198 of 2022, under Sections 363, 366, 376D, 506 I.P.C. and 5G/6 P.O.C.S.O. Act, Police Station Neemgaon District Kheri, during trial.

3. Learned counsel for the accused-applicant while pressing the bail application submits that the applicant has been falsely implicated in this case and he has not committed any offence as claimed by the prosecution.

4. It is further submitted that in the statement of the victim recorded under section 164 Cr.P.C., the prosecutrix has assigned the role that the applicant was standing out side and the allegation of rape is levelled against co-accused Saleem. It is also submitted that co-accused persons namely Anees @ Mandoo and Sajid have been granted bail by coordinate Benches this Court vide orders dated 12.07.2023 and 20.9.2023 passed in Criminal Misc. Bail Application Nos.13771 of 2022 and 10238 of 2023, respectively and the case of the applicant is at par with the aforesaid co-accused persons. Thus the applicant may also be granted bail on the ground of parity.

5. It is next submitted that applicant is in jail in this case since 15.06.2023 and he is not having any criminal history, charge-sheet in this case has already been submitted and there is no apprehension that after being released on bail the applicant may flee from the course of law or may otherwise misuse the liberty.

6. 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 having regard to the material/evidence available against the applicant, he is not entitled to be released on bail, but could not controvert the other factual submissions made by learned counsel for the applicant.

7. Having heard learned counsel for the parties and having perused the record, it is evident that in her statement recorded under section 164 Cr.P.C., the prosecutrix has assigned the role that the applicant was standing outside the room and the allegation of rape has been levelled against co-accused Saleem. Identically placed co-accused persons namely Anees @ Mandoo and Sajid have been granted bail by coordinate Benches of this Court and the case of the applicant is at par with the aforesaid co-accused persons. Thus the applicant may also be granted bail on the ground of parity. Charge-sheet in this case has already been filed. Applicant is in jail in this case since 15.06.2023 without any previous criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions.

8. Having regard to the overall facts and circumstances of the case and 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**.

9. Let the accused/applicant- **Suraj @ Surya Prakash** 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.

10. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

11. Identity, status and residence proof of the applicant and

sureties be verified by the Court concerned before the bonds are accepted.

12. 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 of this Court on the merits of the case.

Order Date :- 13.10.2023

Anupam S/-