

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14139 of 2021

Applicant :- Dhroop Sonkar

Opposite Party :- State Of U.P And 3 Ors.

Counsel for Applicant :- Manoj Kumar Singh, Dheerendra Kumar Singh, Gyanendra Pathak, Rahul Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. As per report of the office dated 15.02.2022, opposite party no.2 has been served and the State in its counter affidavit has also enclosed a report sent by the concerned police station placed as C.A.-1 pertaining to service on opposite party no.2. Thus, opposite party no.2 appears to have been served.
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- **Dhroop Sonkar** for grant of bail, in Case Crime No.484 of 2021, under Sections 363, 366, 376-D I.P.C. & Section 5/6 of P.O.C.S.O. Act, Police Station Kotwali Nanpara, District Bahraich, during trial.
4. 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.
5. It is further submitted that in the statement of the prosecutrix recorded under Section 161 Cr.P.C., she stated to have accompanied the applicant as she was talking to him since long, however, there is no whisper so far as the commission of sexual assault or rape is concerned, however, in her statement recorded under Section 164 Cr.P.C., she for the very first time imputed the allegation of rape to the applicant and co-accused Arvind Sonkar. Initially the prosecutrix refused to undergo any medical examination, however, later on she was subjected to medical examination, but no abnormality or injury of any kind has been found therein.
6. It is further submitted that similarly placed co-accused person of the alleged crime, namely, Arvind Sonkar has been released

on bail by the Coordinate Bench of this Court, vide order dated 21.07.2023 passed in Criminal Misc. Bail Application No.7318 of 2022.

7. It is next submitted that applicant is in jail in this case since 05.09.2021 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.

8. 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.

9. Having heard learned counsel for the parties and having perused the record, it is evident that in the statement of the prosecutrix recorded under Section 161 Cr.P.C., she has not imputed any allegation against the applicant, however, in her statement recorded under Section 164 Cr.P.C., she imputed allegation of rape to the instant applicant and co-accused Arvind Sonkar, who has been released on bail by the Coordinate Bench of this Court. Nothing has been brought before this Court, which may suggest that the order, whereby co-accused person Arvind Sonkar has been granted bail, has been challenged at any higher forum or has been cancelled by the same Bench. Charge-sheet in this case has already been filed. Applicant is in jail in this case since 05.09.2021 without any previous criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions.

10. 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**.

11. Let the accused/applicant- **Dhroop Sonkar** 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.

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

13. Identity, status and residence proof of the applicant and sureties be verified by the Court concerned before the bonds are accepted.

14. 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 :- 30.10.2023

Anupam S/-