

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11008 of 2023

Applicant :- Shyam Vikas

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Civil Sectt. Lko. And Another

Counsel for Applicant :- Atma Ram Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Counter affidavit filed by the State is taken on record.
2. As per communication sent by the Chief Judicial Magistrate, Ayodhya, opposite party no.2 has been served. Proof of service on opposite party no.2 has also been enclosed by the State along with its counter affidavit, however, none is present on behalf of the complainant/victim.
3. Heard 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- **Shyam Vikas** for grant of bail, in Case Crime No.310 of 2023, under Sections 376, 504, 506 I.P.C., Police Station Kotwali Rudauli, District Ayodhya (Faizabad), during trial.
5. 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.
6. It is further submitted that in the F.I.R., which has been lodged by the victim herself, as well as in her statement recorded under Sections 161 and 164 Cr.P.C. allegation of committing sexual assault on 24.06.2023 at about 08:00pm has been attributed to the applicant.
7. It is further submitted that the applicant and the husband of the prosecutrix/victim are having a long standing enmity with regard to payment of some money and on 22.06.2023 a quarrel had taken place between the applicant and the informant/prosecutrix with regard to payment of money, however, the police in connivance with the

informant/complainant had arrested the applicant under Section 151 Cr.P.C.

8. Attention of this Court has been drawn on the copy of challani report so prepared by the concerned police station placed at page no.25 of the paper book in order to show that there is no element of rape or outraging the modesty and these allegations have been carved out subsequently.

9. It is also submitted that the prosecutrix in the F.I.R. itself has stated her age to be of 30 years and she is a married lady and also having children and the F.I.R. has been lodged with inordinate delay of 12 days. In the medical, which has been conducted on 07.07.2023, no abnormality or injury of any kind has been noticed. Thus in support of the allegation of rape, there is no trustworthy evidence against the applicant except the statement of the prosecutrix, which could not be believed in the background that the parties are highly inimical towards each other.

10. It is next submitted that applicant is in jail in this case since 08.07.2023 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.

11. 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.

12. Having heard learned counsel for the parties and having perused the record, it is evident that age of the prosecutrix is about 30 years. She is a married lady. On 22.06.2023, an altercation is shown to have been taken place between the applicant and the prosecutrix pertaining to which the applicant was arrested under Section 151 Cr.P.C. The defence of the applicant appears to be that on the basis of this enmity, this false case has been cooked up. It appears to be an admitted situation that medical examination of the prosecutrix is clean. Charge-sheet in this case has already been filed. Applicant is in jail in this case since 08.07.2023 without any previous criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions.

13. 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**.

14. Let the accused/applicant- **Shyam Vikas** 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.

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

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

17. 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 :- 11.10.2023

Anupam S/-