

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11397 of 2023

Applicant :- Neeraj Gautam

Opposite Party :- State Of U.P Thru. Prin. Secy. Deptt. Home Lucknow

Counsel for Applicant :- Ram Naresh Singh Chauhan

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Heard Mr. Ram Naresh Singh Chauhan, 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-**Neeraj Gautam** for grant of bail in Case Crime No.0217 of 2023, under Sections 366, 323, 504 and 376 IPC lodged at Police Station Maurawan, District Unnao, 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 the FIR has been lodged by the mother of the prosecutrix on 08.05.2023, stating therein that the prosecutrix (her daughter), aged about 20 years, had left her home on 17.04.2023 and thereafter it was known that she has been enticed away by the applicant. On being recovered, statements of the prosecutrix were recorded under Sections 161 and 164 CrPC wherein she alleged to have consumed a 'candy' given by the applicant and thereafter she became in his control and was taken to Kanpur where they resided for two days and sexual intercourse was also performed by the applicant and thereafter they had gone to Jalandhar where they resided for about 20 days and she was also assaulted. It is stated by her that the applicant has also taken her to his brother, Ganesh at Lucknow where the wife of the applicant was also present and thereafter the applicant ousted her from his house and also kept her rupees twenty thousand and aadhar card.

5. Highlighting the above facts, it is vehemently submitted that the age of the prosecutrix as per the informant (her mother) is

about 20 years while in her statements recorded under Sections 161 and 164 CrPC she stated to be aged about 18 years and as per her educational credentials she was about 19 years old at the date and time of the alleged incident and the story she cooked up to falsely implicate the applicant is highly concocted and fabricated and the same could not be believed on the touch-stone of probability. It is further submitted that even if the case of the prosecution is taken on its face, as stated by the prosecutrix in her statements, she appears to be a consenting party and she being major, no offence has been committed by the applicant.

6. It is next submitted that the applicant is languishing in jail in this case since 04.06.2023 and he is not having any previous 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 record, in the background of submissions advanced by the learned counsel for the parties, would reveal that the prosecutrix was major at the date and time of the alleged incident. The defence of the applicant appears to be that since the prosecutrix was major and had accompanied the applicant with her free-will, wish and consent and also cohabited with her consent, no offence, in fact, has been committed by the applicant. The applicant is languishing in jail in this case since 04.06.2023 without any previous 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-**Neeraj Gautam**, 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.

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[Mohd. Faiz Alam Khan, J.]

Order Date :- 21.11.2023

MVS/-