

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12032 of 2023

Applicant :- Dipak Kumar

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

Counsel for Applicant :- Brij Bhushan Singh,Pranjal Apurva,Sandeep Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. This bail application has been filed by the applicant seeking bail in Case Crime No. 104 of 2023 under sections 313, 504, 506, 419, 420 of I.P.C. P.S. Maharua, District- Ambedkar Nagar.
3. As per the prosecution case, the complainant who was pregnant, went to a clinic and was examined by Dr. Bindu and her husband. She was prescribed some medicines. She fell further ill on taking such medicines and started bleeding. She visited the clinic again and was made to pay Rs. 8,000/- and was given certain medicines. The allegation is that the first informant was made to undergo abortion without her consent therefore, the F.I.R. Case Crime No. 104 of 2023 under sections 313, 504 and 506 I.P.c. was lodged. During investigation, additional sections 419 and 420 were added.
4. It is contended on behalf of the applicant that he is not concerned in any manner with the clinic or with Dr. Bindu. All the allegations are against Dr. Bindu only. He is not the husband of Dr. Bindu and has nothing to do with the illegal abortion. It is further argued that no offence under sections 419 and 420 I.P.C. is made out from any angle. As far as the allegation of abortions are concerned there is no specific single imputation against him. There is no evidence that it was a forced abortion or miscarriage. The ingredient of *mens rea* is missing. Further that the applicant is in custody since 25.07.2023. Two cases have been cited against him as his criminal history and he is enlarged on bail in both the cases.
5. The application for bail is opposed by the learned A.G.A., however, certain aspects of the matter could not be refuted.
6. I considered nature of the allegations, role ascribed to the applicant, the evidence proposed, the severity of punishment and all other facts and circumstances of the case. In my view, a case for bail is made out..
7. Let applicant - **Dipak Kumar** be released on bail in the aforesaid Case Crime Number on his furnishing personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-
 - (i) The applicant shall not temper with evidence/witnesses.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel.

(iii) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) framing of charge and (ii) recording of statement under Section 313 Cr.P.C. without exception.

(iv) It is further provided that before issuing the release order, present as well as permanent address of the accused as well as sureties shall also be duly verified and the applicant shall submit undertaking that he shall not change his address without prior intimation to the court concerned.

8. Any violation of above conditions will be treated as misuse of bail and learned Court below will be at liberty to pass appropriate order.

9. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 21.11.2023

Sumit Kumar