

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12040 of 2023

Applicant :- Rohit

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

Counsel for Applicant :- Vikas Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Sri Vikas Sharma, learned counsel for applicant and learned A.G.A. for the State.

2. Rejoinder affidavit filed on behalf of the applicant is taken on record.

3. The present bail application has been filed by the applicant seeking bail in case crime no. 78 of 2023, under sections 323, 324, 504, 506, 313 I.P.C. registered at Police Station-Pali, District-Hardoi.

4. As per the version in the FIR, the accused/applicant Rohit and 3 others, who were drunk, came to the first informant, abused him and his wife. When they protested, he and his wife were beaten by '*lathi-danda*' causing them injuries. The FIR was lodged under sections 323, 504, 506 IPC. During the course of investigation, sections 313 and 324 IPC were added upon.

5. It is contended on behalf of the applicant that it was a simple case of '*maarpeet*', Before the FIR was lodged by the first informant of this case, an FIR case crime no. 76 of 2023, under sections 323, 504, 506 IPC was lodged from the defence side against the informant's side. Four persons of applicant's side sustained injuries and were medico-legally examined. It is further contended that this FIR has been lodged subsequently to the FIR lodged from the side of the defence just to create defence in his favour. It is further said that the wife of the first informant sustained no such injury which can be indicated as connected to miscarriage. In fact, there is no prima facie evidence that forced abortion was caused by the accused/applicant. The applicant is in custody since 09.08.2023 and in the only case cited as his criminal history, the prosecution closed the same by filing a final report. Since the instant applicant has been falsely implicated in this case, he deserves to be released on bail.

6. The application for bail is opposed by learned A.G.A., however certain aspects of the matter could not be refuted.

7. I considered the nature of allegation, evidence proposed and all other facts and circumstances of the case including explanatory defence offered by the applicant. In my view, a case for bail is made out.

8. Let applicant - **Rohit** 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 (a) hearing/framing of charge and (b) recording of statement under Section 313 Cr.P.C. without exception.

(iv) It is further provided that before issuing the release order, present and 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.

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

10. 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

Vikram