

Court No. - 8

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14013 of 2022

Applicant :- Babbey

Opposite Party :- State Of U.P.Thru. Prin.Secy. Deptt. Of Home And 3 Others

Counsel for Applicant :- Amit Kumar Pathak, Gunjan Pandey, Shyamji Dixit, Upendra Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh, J.

1. Heard learned counsel for the accused-applicant, learned A.G.A for the State of U.P. and perused the record.

2. The present bail application under Section 439 Cr.P.C. has been filed on behalf of the applicant in Case Crime No.526 of 2021, under Sections 376-D, 323, 506 I.P.C., Section 5/6 POCSO Act, Section 3(1) (Da)(Dha) and Section 3(2)(v) of S.C./S.T. Act, Police Station-Maholi, District-Sitapur, with the prayer to enlarge him on bail.

3. This is the second bail application. The first bail application filed on behalf of the accused-applicant has been rejected by this Court vide order dated 23.03.2022 passed in Criminal Misc. Bail Application No.2849 of 2022. The said order rejecting the first bail application filed on behalf of the accused-applicant would read as under:-

"1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

2. The present bail application under Section 439 Cr.P.C. has been filed by the applicant seeking bail in FIR No.526 of 2021 under Sections 376-D, 323, 506 IPC, 5/6 POCSO Act, 3(1)(Da) (Dha) and 3(2)(v) S.C./S.T. Act, Police Station Maholi, District Sitapur.

3. Allegation against the accused-applicant and co-accused is that when the prosecutrix went to ease herself out in the night, the accused-applicant and co-accused came and dragged her in nearby sugarcane field. After undressing the prosecutrix, they raped her.

4. Medical age of the prosecutrix has been determined to be 17 years of age. The prosecutrix in her statement recorded under Sections 161 and 164 Cr.P.C. supported the prosecution case in all respects.

5. Considering the gravity of offence, involvement of the

accused-applicant in commission of the offence and impact of the offence on the society, this Court does not consider it to be a fit case for enlarging the accused-applicant on bail at this stage. This bail application is thus, rejected. "

4. The prosecutrix has been examined in the trial court and she has fully supported the prosecution case.

5. In view of the stand of the prosecutrix in the trial Court, this Court at this stage does not find any ground to enlarge/release the accused-applicant on bail.

6. Accordingly, the present bail application is hereby **rejected**.

7. Trial court is directed to conclude the trial within a period of six months from today subject to full cooperation of the accused(s). In case, even after full cooperation rendered by the accused(s) in the trial, if the trial court fails to conclude the trial proceedings, the accused-applicant may revive his bail plea.

(Dinesh Kumar Singh, J.)

Order Date :- 6.7.2023

Piyush/-