Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12422 of 2023

Applicant :- Mo. Faizan
Opposite Party :- State Of U.P Thru. Prin. Secy. Home Dpett. Civil Secrt. Lko. And 3 Others
Counsel for Applicant :- Vineet Kumar Yadav,Arun Kumar
Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Vineet Kumar Yadav, learned counsel for the applicant, Sri Rishikesh Verma, learned A.G.A. for the State and perused the records.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.252 of 2023, under Sections 354B, 506 I.P.C. and Section 7/8 of Protection of Children from Sexual Offences Act, 2012, registered at Police Station Baskhari, District Ambedkar Nagar.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 29.07.2023 against one Afsar and two unknown persons, alleging that while the informant had gone to a Mazar and from there she had gone to have water at a nearby tap, three boys forcibly took her and committed misdeed with her.

4. In the statement of the informant's mother recorded under Section 161 Cr.P.C., she stated that one of the three boys had been identified by her daughter and upon making enquiries, she came to know that the other boys were the applicant and Afsar.

5. In the affidavit filed in support of bail application, it has been stated that the applicant is 23 years old innocent person, and he has been falsely implicated in the present case. Applicant is involved in Case Crime No.204 of 2022 under Section 3/25 Arms Act in which he has been granted anticipatory bail by means of the order dated

13.07.2022 passed by the Sessions Court.

6. A supplementary affidavit has been filed on behalf of the applicant annexing therewith a copy of the statement of the victim recorded under Section 164 Cr.P.C., wherein he stated that two unknown boys had taken her away to a shop under instructions of co-accused-Afsar; other boys went out of the shop and Afsar asked her to marry him. When she declined, he slapped her. Thereafter, police reached and Afsar ran away. She stated that Afsar did not do any other thing against her.

7. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

8. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the victim has not leveled any allegation of commission of rape against any person; that the applicant is not named in the FIR and he has been implicated subsequently on the basis of information gathered by the informant's mother but the source of informant has not been disclosed by her and that the applicant is young man aged about 23 years; that the applicant is languishing in jail since 31.07.2023 and without making any observation, which may affect the merits of the case, I am of the view that the aforesaid facts are sufficient for making out a case for enlargement of the applicant on bail in the aforesaid crime.

9. Accordingly, this bail application stands ***allowed***.

10. Let the **applicant-**Mo. Faizan be released on bail in aforementioned case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of magistrate/court concerned, subject to following conditions:-

(i) the applicant shall not tamper with the prosecution evidence;

(ii) the applicant shall not pressurize the prosecution witnesses;

(iii) the applicant shall appear on each and every date fixed by the trial court.

(Subhash Vidyarthi, J.)

Order Date :- 19.10.2023
prateek

Digitally signed by :-
PRATEEK ARORA
High Court of Judicature at Allahabad,
Lucknow Bench