

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12430 of 2023

Applicant :- Raju Sharma

Opposite Party :- State Of U.P Thru. Secy. Home Deptt. Govt. Civil Sectr. Lko.

Counsel for Applicant :- Punit Kumar Shukla, Priyanka Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Pawan Kumar Maurya, the learned counsel for the applicant as well as Sri Gyanendra Singh, the learned A.G.A. for the State and perused the record.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 210 of 2023, under Section 377 I.P.C., registered at Police Station Sakran, District Sitapur, U.P.
3. The aforesaid case has been registered on the basis of F.I.R. lodged on 23.06.2023 at 15:45 hours against the applicant and one Ampish, alleging that while the informant's 22 years old son was on the fields to look after the crop, the applicant called him to his own field at about 06:00 pm and thereafter the applicant made co-accused Raju commit the misdeed against the informant's son.
4. In the statement of the victim recorded under Section 161 Cr.P.C, he stated that the applicant had made her perform oral sex.
5. In the statement of the victim recorded under Section 164 Cr.P.C, he alleged that both the accused persons had made him perform oral sex and also had sodomized him.
6. In the medico legal examination report of the victim, no injury has been found on any part of his body.
7. After investigation, a charge-sheet has been submitted on 28.06.2023.
8. In the affidavit filed in support of the bail application, it has been stated that the applicant is innocent, he has been falsely implicated in the present case because of a political animosity

and he has no previous criminal history. It has also been submitted on behalf of the applicant that the co-accused Ampish has already been enlarged on bail by this court by means of an order dated 10.10.2023, passed in Criminal Misc. Bail Application No.12042 of 2023.

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

10. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the F.I.R lodged at 15:45 hours on 23.06.2023 alleges commission of the misdeed at 06:00 pm on the aforesaid date i.e after lodging of the F.I.R; that there are major discrepancies in the version of the incident in the F.I.R, in the statement of the victim recorded under section 161 Cr.P.C and in his statement recorded under Section 164 Cr.P.C and the allegations levelled in the statement recorded under Section 164 Cr.P.C are not supported by the medico legal examination report of the victim, coupled with the fact that the applicant has no criminal history and he is languishing in jail since 24.06.2023, whereas a co-accused has been granted bail by this court and without making any observations 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.

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

12. Let the **applicant-Raju Sharma** be released on bail in the aforesaid case, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of Magistrate/Court concerned, subject to the 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.

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(Subhash Vidyarthi,J.)

Order Date :- 19.10.2023

Ram.