

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12441 of 2023

Applicant :- Tarachand

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

Counsel for Applicant :- Manjusha Kapil

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Learned A.G.A. informs that he has procured complete instructions in the matter including up-to-date case diary and charge sheet in this case has also been submitted.

2. Heard Ms. Manjusha Kapil, learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.

3. This bail application has been moved by the accused/applicant- **Tarachand** for grant of bail, in Case Crime No. 436 of 2023, under Section 376 and 506 I.P.C., Police Station Kursi, District Barabanki, during trial.

4. Learned counsel for the accused-applicant while pressing the bail application submits that applicant has been falsely implicated in this case in fact no occurrence, as shown by the informant/victim has occurred.

5. It is further submitted that the F.I.R. of the instant case has been lodged by the informant herself on 13.07.2023 by moving an application under Section 156(3)Cr.P.C. and the contents written therein have been crafted with the help of a legal professional. The incident in the F.I.R. is shown to have occurred on 15.05.2023 at 6:00 pm. when the applicant is shown to have entered into the house of the prosecutrix and committed sexual assault on her by intimidating to cause the death of her son. Applications are shown to have been given to the concerned S.P. on 22.05.2023, 27.05.2023 as well as on 02.06.2023. The prosecutrix in her statement recorded under Section 161 and 164 Cr.P.C. has supported the allegations of the F.I.R., however, in the medical examination report no significant finding has been found nor any injury has been noted and in the medical she was also found pregnant.

6. Highlighting the above facts, it is vehemently submitted that

the story, as cooked up by the prosecutrix in order to falsely implicate the applicant is highly improbable and could not be believed on the touchstone of probability. Elaborating further, it is submitted that in fact a quarrel had taken place between the applicant and the victim pertaining to the 'pet animal' with regard to the incident occurred on 24.05.2023, the proceedings under Sections 107, 116, 151 Cr.P.C. was drawn against the applicant by the concerned police station and documents pertaining to the proceedings under Section 151 Cr.P.C. are placed at Page No.22 of the paper book, wherein it is specifically stated that the quarrel between the informant and the applicant was pertaining to the 'pet animals'.

7. Attention of this Court is also drawn on an application given by the applicant on 03.06.2023 with regard to a quarrel occurred between the applicant and informant on 14.05.2023 at about 5:00 pm. and a report of the concerned police station with regard to the same incident placed as Annexure No.3, wherein it is fortified by the concerned police station that on 24.05.2023 minor quarrel had taken place between the parties and the proceedings under Sections 107, 116, 151 Cr.P.C. were drawn.

8. It is vehemently submitted that a minor quarrel occurred between the applicant and informant has given the colour of sexual assault. Attention of this Court has also drawn on the fact that before the trial Court, the parents of the victim has submitted their affidavits denying the incident of sexual assault and, thus, apart from the oral allegations of the informant which could not be believed due to inherent weaknesses, there is no medical evidence available in corroboration of the same.

9. It is next submitted that applicant is languishing in jail in this case since 01.08.2023 and he is not having any criminal history. Charge sheet in this case has already been filed and there is no apprehension that after being released on bail he may flee from the course of law or may otherwise misuse the liberty.

10. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and, therefore, he is not entitled to be released on bail.

11. Perusal of the record would reveal that the F.I.R. of the instant case has been lodged by moving an application under Section 156(3) Cr.P.C. and it is submitted that the F.I.R. has been drafted by the aid of a legal professional and the contents of the same has been aggravated. It is submitted by the applicant that on 24.05.2023 a minor quarrel had taken place between the applicant and informant/victim and proceedings

under Sections 107, 116, 151 Cr.P.C. were drawn against the applicant, however, the same has been given the colour of rape. The medical report of the prosecutrix is clean. She is admittedly aged about 24 years. Applicant is languishing in jail in this case since 01.08.2023 without any criminal antecedents. Charge sheet in this case has also been filed and the presence of the applicant may be secured before the trial court by placing adequate conditions.

12. Keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus **allowed**.

13. Let the accused/applicant- **Tarachand** involved in above-mentioned case, be released on bail on his furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

14. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

15. Identity, status and residence proof of the applicant and sureties be verified by the Court concerned before the bonds are accepted.

16. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression on the merits of the case.

Order Date :- 19.10.2023

Praveen