

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12870 of 2023

Applicant :- Alok Alias Rankaj

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home, Lko.

Counsel for Applicant :- Rajendra Prasad

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Learned AGA informs that he has procured complete instructions in the matter along with upto date case diary and the charge sheet in this case has already been submitted.
2. Heard Shri Rajendra Prasad, 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- **Alok @ Rankaj** for grant of bail, in Case Crime No. 04/2023, under Sections 376, 354, 323, 504, 506, 427, 328 IPC, Police Station Mahila Thana II, District Lucknow, during trial.
4. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. The FIR of this case has been lodged by the prosecutrix herself by moving an application before the Magistrate under Section 156(3) Cr.P.C. and the allegations therein have been aggravated as the same has been drafted by a legal professional. Various paragraphs of the application moved under Section 156(3) Cr.P.C. has been highlighted in order to show that these averment could only be made by a highly qualified professional and thus the FIR as well as the contents therein are false, fabricated, concocted and could not be believed.
5. It is further submitted that in the statements of the prosecutrix recorded under Sections 161 and 164 Cr.P.C. as well as the averments contained under the First Information Report would reflect that the case of the prosecution is to the tune that in the year 2020 at the festival of Holi, the applicant had offered the prosecutrix to have cold-drink and by drinking the same the prosecutrix lost her consciousness and thereafter she was sexually assaulted by the applicant and a video of the activity

was also filmed by the applicant and on the basis of that video the applicant had sexually assaulted the prosecutrix various times and when she had gone to the house of the applicant to complain about his illegal activities, she was assaulted not only by the applicant but by his family members too and the audio recording which was saved in her phone was also destroyed by the family members of the applicant by crushing the mobile.

6. Highlighting the above fact it is vehemently submitted that the prosecutrix is admittedly aged about 25 years as per her educational credential and she was married and was having a child of 2 years and it could not be digested that for 3 long years the prosecutrix was sexually assaulted on the basis of an obscene video when no such video or photographs have been retrieved or collected by the Investigating Officer during the course of investigation.

7. It is also submitted that the prosecutrix also refused to undergo any internal medical examination and no injury etc. has been found on the external medical examination.

8. It is further submitted that the applicant is in jail in this case since 25.03.2023 and he is not having any criminal antecedent. Charge sheet in this case has already been submitted and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty.

9. Learned A.G.A., however, opposes the prayer for bail but could not dispute the other factual submissions made by the learned counsel for the accused-applicant.

10. Having heard learned counsel for the parties and having perused the record, it is evident that the FIR was lodged by moving an application under Section 156(3) Cr.P.C. under the order of the Magistrate. The prosecutrix is aged about 25 years, she is married and also having a child of 2 years. Allegations have been levelled that in 2020 she was first sexually assaulted as some noxious substance was administered to her in a cold-drink given by the applicant and thereafter she is being continuously sexually assaults. However, in these 3 years no complaint of any kind appears to have been made by the prosecutrix to any public authority and it is in this background, it is submitted by learned counsel for the applicant that the case is patently false and could not be believed. Admittedly, the Investigating Officer have not collected or retrieved any video or photograph either from the phone of the applicant/ accused or from any other person including prosecutrix. The applicant is in jail in this case since 25.03.2023 and he is not having any

criminal history. His presence may be secured before the trial court by placing adequate conditions.

11. 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 and demerits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is **allowed**.

12. Let the applicant- **Alok @ Rankaj** involved in the aforesaid case be released on bail on 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 make any contact with the prosecutrix/ victim directly, indirectly or through any social platform and the violation of this condition alone shall be a sufficient ground or the trial court to cancel the facility of bail of the applicant.

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

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

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

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

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

15. Observations made herein-above are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

Order Date :- 1.11.2023

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