

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14928 of 2022

Applicant :- Saleem Ansari Alias Nanhen

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

Counsel for Applicant :- Alok Kr. Misra, Ashish Kumar Singh, Manish Vaish, Pankaj Kumar Dixit, Vijayendra Prakash Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Shri Manish Vaish, learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.
2. This bail application has been moved by the accused/applicant- **Saleem Ansari Alias Nanhen** for grant of bail, in Case Crime No.242 of 2022, under Sections 376, 504, 506 I.P.C., Police Station Kaudiya, District Gonda, during trial.
3. Learned counsel for the accused-applicant while pressing the bail application submits that the applicant has been falsely implicated in this case and he has not committed any offence as claimed by the prosecution.
4. It is further submitted that F.I.R. of this case has been lodged by the prosecutrix herself, wherein it is stated that at first she was sexually assaulted by the applicant about two months from before lodging of the F.I.R. and on 03.10.2022, he again called her at about 04:00pm. and committed rape on her in his house. The prosecutrix in her statement recorded under Sections 161 and 164 Cr.P.C. has supported the allegations of the F.I.R.
5. Highlighting the above facts, it is vehemently submitted on behalf of the applicant that the story as has been cooked up by the prosecutrix is false, highly concocted and could not be believed. The age of the prosecutrix is about 36 years and she is having six children and the F.I.R. has been longed in this case only on account of prior enmity.
6. It is further submitted that medical report of the prosecutrix is clean as no injury of any kind has been found therein and even if the case of the prosecutrix as stated in her statements

recorded under Section 161 and 164 Cr.P.C. is believed for the sake of arguments, she appears to be a consenting party as she herself stated that sexual relations were made between her and applicant many times.

7. It is next submitted that applicant is not having any criminal history and he is in jail in this case since 11.10.2022 and examination in chief of the prosecutrix has been recorded by the trial court and there is no hope that the trial may be concluded in near future. Charge-sheet in this case has already been submitted and there is no apprehension that after being released on bail the applicant may flee from the course of law or may otherwise misuse the liberty.

8. 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 having regard to the material/evidence available against the applicant, he is not entitled to be released on bail, but could not controvert the other factual submissions made by learned counsel for the applicant.

9. Having heard learned counsel for the parties and having perused the record, it is evident that age of the prosecutrix is about 36 years. She is having six children and it has come in her own statement that majority of her children are major. First incident is shown to have occurred about two months before the lodging of the F.I.R. and thereafter another incident is shown to have occurred on 03.10.2022, wherein sexual assault has been imputed. The defence of the applicant appears to be that story as cooked up by the prosecutrix is highly improbable and could not be believed more so when there is no injury etc. has been found in the medical examination of the prosecutrix. Charge-sheet in this case has already been filed. Applicant is in jail in this case since 11.10.2022 without any previous criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions.

10. Having regard to the overall facts and circumstances of the case and 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**.

11. Let the accused/applicant- **Saleem Ansari Alias Nanhen** 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.

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

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

14. 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 of this Court on the merits of the case.

Order Date :- 2.11.2023

Anupam S/-