

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13137 of 2023

Applicant :- Akhilesh Kumar Paswan

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

Counsel for Applicant :- Manoj Kumar Singh

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 including up to date case diary and the charge sheet in this case has already been submitted.

2. Heard Shri Manoj Kumar Singh 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- **Akhilesh Kumar Paswan** for grant of bail, in Case Crime No. 296 of 2023, under Sections 376, 452, 506 IPC, Police Station Malhipur, District Shrawasti, during trial.

4. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. The age of the prosecutrix as stated by her in the statements recorded under Sections 161 and 164 Cr.P.C. is 18 years and her radio logical age has also been assessed as 19 years. The prosecutrix is a married lady and she has lodged the First Information Report pertaining to the instant case on 8.8.2023 alleging therein that when she was alone in the house the applicant entered in her house and committed sexual assault on 7.8.2023 at about 12 P.M. In the statements of the prosecutrix recorded under Sections 161 and 164 Cr.P.C. she has supported the allegations levelled in the FIR.

5. Highlighting the above facts, it is vehemently submitted by learned counsel for the applicant that the story as narrated by the prosecutrix in her statement recorded under Sections 161 and 164 Cr.P.C. as well as in the First Information Report is highly improbable, concocted and could not be believed.

6. Elaborating further, it is submitted that the incident was occurred on 7.8.2023 at 12.00 P.M. while the prosecutrix/victim was medically examined on the next date i.e. 8.8.2023

at 3.35 P.M. and no abnormality or injury of any kind has been found on her person. Her pathological report is also clean. Thus the medical report of the prosecutrix is not corroborating with the accusations made against the applicant

7. It is also submitted that the prosecutrix is also shown to be pregnant by 13 weeks in the ultrasound report, however, the same is highly improbable and the accusation of the same may not be imputed against the applicant as it has been clearly stated by the prosecutrix in her statement recorded under Section 164 Cr.P.C. that before the alleged incident the applicant had not committed any mischief with her.

8. It is further submitted that the applicant is in jail in this case since 8.8.2023 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. on the other hand submits that the applicant is accused of committing heinous offence, therefore he is not entitled to be released on bail.

10. Having heard learned counsel for the parties and having perused the record, it is reflected that the incident as described by the prosecutrix in the FIR and in her statements recorded under Sections 161 and 164 Cr.P.C. alleged to have been occurred on 7.8.2023 at 12.00 P.M in the afternoon and she was medically examined on the next day i.e. 8.8.2023 at 3.35 P.M. The medical report of the prosecutrix is clean. Neither any injury nor any abnormality has been found therein. The prosecutrix was found pregnant by 13 weeks while alleged incident is shown to have occurred on 7.8.2023. The applicant has not committed any mischief with her prior to the incident in question prosecutrix is a married women. The applicant is in jail in this case since 8.8.2023 and he is not having any criminal antecedent. Charge sheet in this case has already been submitted. 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- **Akhilesh Kumar Paswan** 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 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.

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 :- 7.11.2023

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