

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13412 of 2023

Applicant :- Khursheed @ Munne

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

Counsel for Applicant :- Akhilesh Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. During the course of deliberation learned counsel for the applicant has presented an order passed by the Additional Civil Judge (Junior Division) Court No. 17, Pratapgarh in a Complaint No. 650 /2023 entitled 'Haseena Begum Vs. Zakir Ali @ Jabbu and others' on 18.5.2023, whereby the application under Section 156(3) Cr.P.C. has been moved by one Haseena Begum and the same is taken on record.

2. Heard Shri Akhilesh Kumar Pandey, 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- **Khursheed @ Munne** for grant of bail, in Case Crime No. 56 of 2023, under Sections 452, 354, 376 and 506 IPC, Police Station Delhupur, District Pratapgarh, during trial.

3. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. The First Information Report has been lodged under the orders passed by the court under Section 156(3) Cr.P.C. and the allegations which have been levelled in the application moved under Section 156(3) Cr.P.C. has been aggravated with the help of a legal professional.

4. It is further submitted that the parties were having inimical relations with regard to the payment of some money and it is only on this account, a false case has been cooked up and an order of date 18.5.2023 passed by the Additional Civil Judge (Junior Division) Court No.17, Pratapgarh presented for perusal and the same is taken on record and has been referred in order to show that the similar application was given by the wife of the applicant against the husband of the informant/ victim of

this case, which has been treated as a complaint and it is submitted that the dispute between the parties is pertaining to the payment of Rs. 4,00,000/- which was taken by the husband of the victim for the treatment of his daughter and has not been paid back.

5. It is also submitted that the incident as shown by the victim in her statements recorded under Sections 161 and 164 Cr.P.C. is highly concocted and could not be believed on the touch stone of probability as the incident is shown to have been committed by the family members of the prosecutrix who were present including the husband, the applicant is in jail in this case since 30.06.2023 and he is not having any criminal antecedent and there is not apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty.

6. Learned A.G.A. on the other hand submits that the applicant is accused of committing an heinous offence.

7. Having heard learned counsel for the parties and having perused the record, it is reflected that the prosecutrix is shown to be aged about 26 years. She is a married lady and the allegation of rape has been levelled against the applicant which is shown to have been committed in the house of the prosecutrix. The defence of the applicant appears to be that the story as cooked up by the prosecution is highly concocted and could not be believed as the commission of rape is stated to have taken place in the house of the prosecutrix, where other family members of her was also present including her husband. The parties are stated to be having enmity between them pertaining to the payment of some money given to the informant/ victim for the treatment of their daughter by the applicant. The applicant is in jail in this case since 30.06.2023 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.

8. 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**.

9. Let the applicant- **Khursheed @ Munne** 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.

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

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

12. 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 :- 20.12.2023

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