

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13501 of 2023

Applicant :- Mohd. Shamim

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

Counsel for Applicant :- Anamika Singh, Paritosh Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma, J.

01. Heard Shri Paritosh Shukla, learned counsel for applicant, Sri Ajay Veer Singh, learned counsel for the informant and learned A.G.A. for the State.

02. The present bail application has been filed by the applicant seeking bail in F.I.R. No.237 of 2023, under Sections 354, 419, 420, 467, 468, 504, 506 I.P.C. and 66 E, 67A IT Act, P.S. Kotwali Dehat, District Sultanpur.

03. As per version of the F.I.R., the accused Mohd. Shamim used to indulge in obscene behavior with the first informant. Father of the first informant complained to accused Mohd. Shamim and his brother but they did not pay any heed, instead they threatened her and used foul language against her. The matter was investigated upon and chargesheet has been filed against two of four named in the F.I.R.

04. It is submitted on behalf of the applicant that the F.I.R. is nothing but a bundle of lies. The reality is that first informant has been in relationship with the accused for quite sometime and they in fact got married as per Muslim Rites and Rituals. Nikahnama has been filed in support of this contention. It is further said that copies of the photographs and whatsapp chat amply show that they have been in relationship for quite sometime. When the relationship could not continue, this false F.I.R. has been filed involving him and other members of family. My attention has been drawn to the statement recorded under Section 161 Cr.P.C. of the first informant wherein the victim herself admitted that she has been in contact with the accused for quite sometime. The applicant is in custody since 29.07.2023 i.e. about more than five months now.

05. The application for bail is opposed by learned A.G.A. and learned counsel for the first informant stating that nikahnama is fabricated document and that the matter involves exploitation a woman, therefore, the applicant is not entitled for bail. The applicant is having criminal history of case (which has been explained by the applicant in paras 17 and 23 of the affidavit).

06. I considered the submissions of both sides, contents of the F.I.R., statement given under Section 161 Cr.P.C., documentary evidence including copy of the Nikahnama and photographs and other relevant facts. In my view, a case for bail is made out.

07. Let applicant - **Mohd. Shamim** be released on bail in the aforesaid

Case Crime Number on his furnishing personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

- (i) The applicant shall not temper with evidence/witnesses.
- (ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel.
- (iii) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) framing of charge and (ii) recording of statement under Section 313 Cr.P.C. without exception.
- (iv) It is further provided that before issuing the release order, present as well as permanent address of the accused as well as sureties shall also be duly verified and the applicant shall submit undertaking that he shall not change his address without prior intimation to the court concerned.

08. Any violation of above conditions will be treated as misuse of bail and learned Court below will be at liberty to pass appropriate order.

09. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 17.11.2023

Asha