

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13596 of 2023

Applicant :- Mohd. Danish Khan @ Afsar

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Civil Sectt. Lko And 3 Others

Counsel for Applicant :- Shadab Waheed, Syed Raza Mehdi

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Syed Raza Mehdi, learned counsel for the applicant, Sri Anurag Verma, the learned A.G.A.-I for the State and perused the records.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.252 of 2023, under Sections 354B, 506 I.P.C. and Section 7/8 of Protection of Children from Sexual Offences Act, 2012, registered at Police Station Baskhari, District Ambedkar Nagar.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 29.07.2023 against one Afsar and two unknown persons, alleging that while the informant had gone to a Mazar and from there, she had gone to have water at a nearby tap, three boys forcibly took her and committed misdeed with her.

4. In the statement of the informant's mother recorded under Section 161 Cr.P.C., she stated that one of the three boys had been identified by her daughter and upon making enquiries, she came to know that the other boys were the Faizan and Afsar (the applicant).

5. In the affidavit filed in support of bail application, it has been stated that the applicant is 21 years old innocent person, he has been falsely implicated in the present case and he has no criminal history.

6. In the statement of the victim recorded under Section 164 Cr.P.C., she stated that two unknown boys had taken her away to a shop under instructions of the applicant; other boys went out of the shop and the applicant asked her to marry him. When she declined, he slapped her. Thereafter, police reached and the applicant ran away. She stated that the applicant did not do any other thing against her. It has also been submitted on behalf of the applicant that the co-accused Mohd. Azhar and Mo. Faizan have already been granted bail by this court by means of orders dated 19.10.2023 and 19.10.2023, passed in Criminal Misc. Bail Application Nos. 12525 of 2023 and 12422 of 2023.

7. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

8. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the victim has not leveled any allegation of commission of rape against any person; that the applicant is a young man aged about 21 years having no criminal history and he is languishing in jail since 31.07.2023 and the other co-accused persons have been granted bail and without making any observation, which may affect the merits of the case, I am of the view that the aforesaid facts are sufficient for making out a case for enlargement of the applicant on bail in the aforesaid crime.

9. Accordingly, this bail application stands **allowed**.

10. Let the **applicant-Mohd. Danish Khan @ Afsar** be

released on bail in aforementioned case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of magistrate/court concerned, subject to following conditions:-

- (i) the applicant shall not tamper with the prosecution evidence;
- (ii) the applicant shall not pressurize the prosecution witnesses;
- (iii) the applicant shall appear on each and every date fixed by the trial court.

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(Subhash Vidyarthi, J.)

Order Date :- 18.11.2023

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