

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14250 of 2023

Applicant :- Chunne Khan

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

Counsel for Applicant :- Ashish Raman Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Aashish Raman Mishra, learned counsel for the applicant, Ms. Sudha Sharma, learned A.G.A. for the State as well as Sri Sandeep Singh, learned counsel for the informant and perused the records.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 313 of 2023, under Sections 376D, 323, 504 I.P.C., registered at Police Station-Visheshwarganj, District- Bahraich.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 08.08.2023 against four persons including the present applicant alleging therein that the victim had gone to attend the call of nature in the morning where she was caught with ill intention without specifying as to who had caught her. She further stated that co-accused Banne has committed such incident on several occasions also. The FIR further reveals that when the brother of the informant went to inquire about the incident, the accused persons had beaten him. When other family members tried to intervene, they were also beaten up. Three persons have received injuries all of which are simple in nature.

4. In view of the statement of the victim recorded under section 161 CrPC, she alleged commission of rape by the applicant and co-accused Banne.

5. It is submitted that the allegation of rape is not supported by medico legal examination report of the victim. The FIR No.314 of 2023 has been lodged from the side of the applicant also against four persons, including the informant Rukhsana, alleging that there is a property dispute regarding which a civil suit is pending. During the pendency of the dispute, the accused persons put up thatched roof on a part of the disputed land and

when objected they had beaten up the family members of the applicants.

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

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 is the informant herself and in the FIR, she has not levelled any allegation of rape against the applicant, though the allegation of rape has been levelled subsequently, it is not supported by the medico legal examination report of the alleged victim; an FIR has also been lodged from the applicant's side also; a property dispute is also going on between the parties regarding which a civil suit is also pending; that the applicant has no previous criminal history and he is languishing in jail since 25.08.2023 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- Chunne Khan be released on bail in the aforesaid 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.

(Subhash Vidyarthi, J.)

Order Date :- 4.12.2023
Manoj K.