

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14401 of 2023

Applicant :- Amit Lodh

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

Counsel for Applicant :- Rajiv Raman Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Learned A.G.A. informs that she has procured complete instructions in the matter including upto date case diary of the case.
2. Heard Shri Rajiv Raman Srivastava, 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- **Amit Lodh** for grant of bail, in Case Crime No.103 of 2023, under Section 376 I.P.C., Police Station Kamlapur, District Sitapur, during trial.
4. Learned counsel for the accused-applicant while pressing the bail application submits that the applicant has been falsely implicated in this case and he has not committed any offence as claimed by the prosecution.
5. It is further submitted that in the F.I.R., which has been lodged by the prosecutrix herself, allegation of commission of rape has been levelled against the applicant and similarly the same allegations have been levelled in the statement of the prosecutrix recorded under Sections 161 and 164 Cr.P.C.
6. It is vehemently submitted on behalf of the applicant that age of the prosecutrix at the date and time of the alleged incident was more than 18 years as per her educational credentials and during the course of trial, she has been testified before the trial court as P.W.-1 and in her cross examination, she has not supported the version of the prosecution and has specifically stated that the applicant is known to her from before lodging of the F.I.R. and he has not committed anything wrong with her nor she was dragged by him in a sugarcane field nor any sexual assault has been committed by the applicant with her and in fact

she had lost her consciousness while in the F.I.R., it is admitted by her that her family members and family members of the applicant are highly inimical towards each other on account of a dispute pertaining to tying animals on a passage.

7. It is vehemently submitted that since the star witness of this crime has not supported the version of the prosecution, the prosecution would not be able to secure conviction of the applicant more so no abnormality or injury etc. has been found in the medical examination report of the prosecutrix.

8. It is next submitted that applicant is in jail in this case since 31.03.2023 and he is not having any criminal history, charge-sheet in this case has already been submitted and there is no apprehension that after being released on bail the applicant may flee from the course of law or may otherwise misuse the liberty.

9. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and having regard to the material/evidence available against the applicant, he is not entitled to be released on bail, but could not controvert the other factual submissions made by learned counsel for the applicant.

10. Having heard learned counsel for the parties and having perused the record, it is evident that the prosecutrix has been testified before the trial court as P.W.-1 and she was intact in chief examination, however, during the course of cross examination, she has become hostile and has not supported the allegations as levelled in the F.I.R. as well as in her statements recorded under Sections 161 and 164 Cr.P.C. and has categorically stated that she was not raped by the applicant. Charge-sheet in this case has already been filed. Applicant is in jail in this case since 31.03.2023 without any previous criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions.

11. Having regard to the overall facts and circumstances of the case and 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 of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus **allowed**.

12. Let the accused/applicant- **Amit Lodh** involved in above-mentioned case, be released on bail on his 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 by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression of this Court on the merits of the case.

Order Date :- 7.12.2023

Anupam S/-