

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 15032 of 2023

Applicant :- Shubham Awasthi

Opposite Party :- State Of U.P., Thru. Prn. Secy., Deptt. Of Home, Civil Sectt. Lko.

Counsel for Applicant :- Bhaskar Dutt Misra, Arun Diwaker, Madhusudan Dutt Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard Sri Madhusudan Dutt Mishra learned counsel for the applicant, Sri M.V.S. Chauhan, learned AGA for State and perused record.
2. This first application for bail is moved on behalf of applicant for bail in case crime No.548 of 2023 under Section 376, 504, 506 IPC, PS Maholi, district Sitapur.
3. Learned counsel for the applicant has submitted that FIR has been lodged by the father of the prosecutrix after ten days from the date of incident and he has mentioned in the FIR that his daughter was overpowered by the applicant and was taken to sugarcane field and rape was committed by him.
4. Learned counsel for the applicant has submitted that due to political rivalry, the applicant has been falsely implicated. He has further submitted that medical report is not supporting the prosecution case and before the doctor the prosecutrix has stated that two persons had overpowered her and only applicant committed rape. He has submitted that name of second person has not come into light and chargesheet has been filed in the case against the applicant only. It has been submitted by the learned counsel for the applicant that the prosecutrix did not raise any alarm which indicates that entire prosecution case is doubtful.
5. On the other hand, learned AGA has submitted that prosecution case is intact from the FIR to statement under Section 161 and 164 CrPC. The prosecutrix has been examined before the Court and she has deposed that she had gone to outside of her house and the applicant overpowered her and took her to sugarcane field and committed rape against him. It has been submitted by the learned AGA that prosecutrix is

supporting the prosecution case because as per the medical report, the hymen condition is old torn and medical is conducted on 14.9.2023 which is after ten days. Thus, genital condition of prosecutrix is corroborating with the case of the prosecution.

6. Considering over all facts and circumstances of the case, the argument that prosecution case from FIR to statement under Section 161 and 164 CrPC is intact, the argument that medical report is supporting the prosecution case, it is not a fit case for bail.

7. The application for bail is rejected. Trial Court is directed to conclude the trial within six months without being influenced by the observations made hereinabove.

Order Date :- 19.12.2023
Rajneesh JR-PS)