

**Neutral Citation No. - 2025:AHC:78691**

**Reserved On:- 09.05.2025**

**Delivered On:- 14.05.2025**

**Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46497 of 2024**

**Applicant :- Ram Milan Rai**

**Opposite Party :- State of U.P.**

**Counsel for Applicant :- Dharmendra Kumar Dwivedi,Raghuvansh Misra**

**Counsel for Opposite Party :- Anshuman Singh,Deepak Dubey,G.A.**

**Hon'ble Siddharth, J.**

1. Heard Sri Ashwani Tripathi, Advocate, holding brief of Sri Raghuvansh Misra, learned counsel for the applicant; Sri Deepak Dubey, learned counsel for the informant; learned AGA for the State and perused the material placed on record.

2. The prosecution case as per F.I.R., the applicant called up the victim on her mobile number by mistake and thereafter reached out to her, pretending to be a contractor in the Excise Department. The applicant told the informant that he could get her profitably employed in the Excise Department through his contacts. On 23.09.2023, the applicant called the victim to Jhansi and met her at the bus stand from where they went to hotel Amar Guest House. At the hotel, the applicant disrobed the victim and made physical relations with her. After getting into the bathroom, the victim through her mobile informed the police by dialing 112. After the police came, they rescued the victim but did not took any action against the applicant and even refused to get the medical examination of the victim conducted. The Police took the signatures of the victim on blank papers and coerced the victim into accepting Rs. 5,00,000/- for giving up all charges against the applicant. An incomplete video of the victim was prepared by the police, in which she could be heard saying that she had

voluntarily went to the hotel with the applicant. The victim was allowed to go to her aunt's house at 02:00 a.m by the police. On the next day, the family members of the victim were informed so as to embarrass her. Despite best efforts, the police did not took any action against the applicant. On 29.05.2023, a complaint was filed on the Public Grievances Forum on-line and thereafter on 27.09.2023 an application was sent through registered post to Superintendent of Police for action. Subsequently, an application under Section 156(3) of Cr.P.C was preferred by the victim before the court.

3. Learned counsel for the applicant submits that it is a case of false implication. In the context of complaint filed by the victim on the online portal for resolution of Public Grievances, an inquiry was conducted by S.H.O., Medical Thana Nawabad, Jhansi. On 05.10.2023, the inquiry report was submitted, wherein it was stated that on 03.01.2023, the sister-in-law of the applicant had filed a rape case against Bal Mukund Rai. Only for exerting pressure in context of the aforesaid rape case, Bal Mukund Rai and Rajnish Rai, had setup the victim to falsely implicate the applicant who is uncle of Rajnish Rai. The applicant was honey trapped by the victim. In the video prepared by the police at the hotel, the victim could be seen clarifying that she had gone with the applicant voluntarily and no offence has been committed against her.

4. F.I.R was registered against the applicant on the direction of the Magistrate under Section 156(3) of Cr.P.C. The allegation of rape is not substantiated by any medico legal evidence. The F.I.R was lodged after inordinate and unexplained delay, which renders the prosecution story doubtful. The victim being aged about 28 years was competent to accord her consent for sexual activity. Being so, the fact that the police had filmed the victim stating in categorical terms that she voluntarily accompanied the applicant at the hotel and no offence was committed against her, it is

established that the applicant was subsequently falsely implicated as part of a larger of conspiracy. Inquiry report of S.H.O., Nawabad, Jhansi, established the innocence of the applicant. No force / undue influence was used against the victim. The applicant is not an employee of the Excise Department, therefore, it is highly improbable that the victim was misled into believing in that she could be given employment at the behest of the applicant. The applicant has criminal history of three cases explained in paragraph 18 of affidavit in support of bail application. He is in jail since 06.11.2024.

5. Counsel for the informant has vehemently opposed the bail application and has submitted that after the incident the victim called the police on dial 100 and 112. Thereafter, she made complaint on 25.09.2023 on Jan Sunvaai Portal. Then she made complaint to S.S.P., Jhansi, on 27.09.2023 but in vain. Hence, she filed the application under Section 156(3) Cr.P.C on 30.09.2023 and hence F.I.R was lodged on 09.10.2024. In the hotel register only name of applicant was mentioned but the local police did not made it part of case diary. The police investigation is going on and in case applicant is enlarged on bail he will tamper with the witnesses.

6. Learned A.G.A has pointed out that the investigating officer has recorded the statements of number of independent witnesses which proves that the applicant called the victim to the guest house on the false promise of providing job to her where he committed the offence of rape against her.

7. Counsel for the applicant has rejoined and has submitted that this is a case of false implication as clear from the fact that the victim refused her internal as well as external medical examination and therefore, there is no corroborative medical evidence to prove that the offence of rape was committed against her. He has pointed out to the statement of Manager of

hotel wherein it has been mentioned that the informant has informed him that she had come for treatment and since the doctor would meet in the evening she has to stayed in the hotel room till the evening. After 15 minutes of the victim and applicant going inside the hotel room police came and informed that some woman has been held hostage in the hotel. He took the police to the hotel room which was open. The applicant was lying on the bed while the victim had bolted the door of both room from inside and when the police got the bath room door opened she made allegation that the applicant had committed the offence of rape against her. Clearly that the woman had pre-planned everything.

8. He has further pointed out to the statement of Kamal Kumar, who stated that he knows the victim and Rajnish Rai. He has seen the victim roaming with Rajnish Rai in car number of times. Bal Mukund Rai is uncle of Rajnish Rai. Sister-in-law of applicant, Ram Milan Rai, has lodged a case of rape against the Bal Mukund Rai in January, 2023. In order to get the aforesaid case compromised pressure is being built on the applicant, Ram Milan Rai. It appears that the informant due to aforesaid reason and on the instigation of Rajnish Rai has lodged this case of rape against the applicant, Ram Milan Rai. He has pointed out that it is a case of false implication of applicant at the behest of Rajnish Rai through victim / informant.

9. After considering the rival submissions and the material on record, this court finds that the prosecution story has certain loop holes which makes the applicant entitled to be enlarged on bail. Possibility of false implication of applicant is possible, keeping in view the manner of incident alleged and relationship of victim with Rajnish Rai. When the victim called the police at hotel the applicant did not tried to escape.

10. Keeping in view the nature of the offence, evidence, complicity of the accused, submissions of the learned counsel for the parties noted above, finding force in the submissions made by the learned counsel for the applicant, larger mandate of the Article 21 of the Constitution of India, considering the dictum of Apex Court in the case of ***Manish Sisodia vs. Directorate of Enforcement, 2024 LawSuit (SC) 677*** and considering 5-6 times overcrowding in jails over and above their capacity by the under trials and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

11. Let the applicant, Ram Milan Rai, involved in Case Crime No. 481 of 2024, under Sections- 376 and 506 IPC, Police Station- Nawabad, District- Jhansi, be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) In case the applicant misuses the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the Court on the date fixed in such proclamation then the Trial Court shall initiate proceedings against him in accordance with law under Section 174-A of the Indian Penal Code.

(v) The applicant shall remain present in person before the Trial Court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

12. In case, of breach of any of the above conditions, it shall be a ground for cancellation of bail.

13. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

**Order Date :- 14.05.2025**

Rohit