

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12152 of 2023

Applicant :- Pramod

Opposite Party :- State of U.P.

Counsel for Applicant :- Sudhanshu Gupta, Akhilendra Yadav

Counsel for Opposite Party :- G.A., Nirbhay Kumar

Hon'ble Sameer Jain, J.

1. List revised. None appeared on behalf of the informant, however, Sri S.B. Maurya, learned A.G.A. for the State is present.
2. Heard Sri Akhilendra Yadav, learned counsel for the applicant and Sri Jhamman Ram, learned AGA for the State-respondent.
3. F.I.R. of the present case was lodged against applicant and according to the F.I.R. applicant being neighbour of the informant committed rape with her on 27.11.2022 in her house in the absence of her husband.
4. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 640 of 2022, under Sections 376, 504, 506, 352 IPC, Police Station- Sikandrarao, District-Hathras, during pendency of the trial in the court below.
5. Learned counsel for applicant submits entire allegation made against applicant is totally false and frivolous and applicant has been falsely implicated in the present matter only due to previous enmity and he neither entered in the house of the informant nor he ever committed rape.
6. He further submits victim is his cousin Bhabhi. Actually husband of the informant has taken a loan of rupees two lacs from applicant to release his land and when applicant demanded the same, some dispute arose between them and only due to this reason, on the instigation of her husband, the informant falsely implicated applicant in the present matter.
7. He further submits even the manner of incident does not inspire any confidence as it is hard to believe that a single person can forcibly commit rape with a grown up healthy lady after dragging her in a room.
8. He further submits medical report of the victim also totally belies prosecution case as no injury either internal or external was found on her body.

9. Per contra learned A.G.A. opposed the prayer for bail and submitted that victim in the F.I.R. and as well as in her both statement recorded under Section 161 Cr.P.C. and 164 Cr.P.C. made allegation of rape against applicant but could not dispute the fact that victim is a married lady and according to her applicant forcibly dragged her into a room and committed rape and doctor did not find any injury on her body.

10. I have heard both the parties and perused the record.

11. Although, victim in the F.I.R. and as well as in her both statement recorded under Section 161 Cr.P.C. and 164 Cr.P.C. made allegation of rape against applicant but the alleged manner of incident appears to be little bit shaky and I find force in the argument advanced by learned counsel for applicant that it is hard to believe that applicant alone, after dragging the victim, who is fully grown up married woman, committed rape with her in a room, therefore, in my view applicant is entitled to be released on bail.

12. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is allowed.

13. Let the applicant- Pramod 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 the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

14. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

Order Date :- 19.4.2023

Kumar Manish.