

BA1 46/2020

Hon'ble N.S. Dhanik, J.

(Via Video Conferencing)

Mr. R.P. Nautiyal, Senior Advocate, assisted by Mr. Tejas Agarwal, Advocate for the applicant.

Mr. G.S. Sandhu, Government Advocate, assisted by Mr. J.S. Virk, AGA for the State.

Urgency applications (IA 4626 of 2020) is allowed.

Let the physical copy of the affidavit and the court fee be filed within three days of the opening of the lockdown. Exemption application (CRMA 1028/2020) stands disposed of accordingly.

Heard on the bail application.

Having been implicated in the Case Crime/FIR No. 01 of 2014, under Sections 376, 504, 506 IPC, registered at Revenue Police Station Barjula, District Tehri Garhwal, the applicant is in jail.

Learned Counsel for the applicant would contend that the applicant has been falsely implicated; FIR is highly belated inasmuch as there is delay of about five years in lodging the same; both applicant and the prosecutrix are major; there is no allegation of rape against the applicant in the FIR; there is no direct or indirect evidence against the applicant; prosecutrix herself admitted that she was in relationship with the accused; prosecutrix gave contradictory statement under Section 161 CrPC; medical evidence also does not support the prosecution story; prosecutrix also entered into compromise and desired that she did not want to prosecute the applicant and the same is evident from the compromise letter (Annexure 2); applicant has no previous criminal history and he is in jail since 11.11.2019.

Learned Government Advocate would oppose the bail application and submit that the applicant was absconding for almost five years. However, he would admit that the applicant has no previous criminal history.

Learned Senior Counsel for the applicant would submit that after the compromise, the applicant went to Dubai for job and he surrendered himself immediately after his return from Dubai.

Having considered the overall facts and circumstances of the case and without expressing any opinion on the final merits of the case, this Court is of the view that the applicant deserves bail. Hence, the bail application is allowed.

Let the applicant be released from jail on his executing a personal bond and furnishing two reliable sureties, each in the like amount, to the satisfaction of Magistrate/Court concerned.

(N.S. Dhanik, J.)
28.4.2020

Prabodh