

IA No.4198 of 2020 (Misc. Appl. with Counter Affidavit)
IA No.4643 of 2020 (Urgency Application)
In
BA1 No.421 of 2020

Hon'ble R.C. Khulbe, J.

Mr. Arvind Vashishth, learned Senior Advocate along with Ms. Monika Pant, learned Advocate for the applicant.

Ms. Manisha Rana Singh, learned A.G.A. for the State.

Heard learned counsel for the parties.

This is the first bail application and the applicant-Abhishek Chauhan has sought his release on bail in connection with Case Crime No.104 of 2019, under Sections 376(2)(i), 376(2)(n), 313 and 506 IPC, registered at Police Station Kotwali, District Uttarkashi.

It is argued by learned Senior Counsel for the applicant that the applicant has been falsely implicated in the crime; no offence is made out against him; the present FIR was lodged on 18.12.2019 at Police Station Uttarkashi against the accused while the prosecutrix had already given an application on 18.07.2019 to Uttarakhand State Commission for Women; copy of the said application is enclosed as Annexure-3, in which she clearly stated that the marriage has been performed between the parties (present accused and the informant) on 01.10.2017 with Hindu rites; it is also clearly stated that at the time of marriage accused did not make any demand of dowry while in the present FIR lodged on 18.12.2019 she made false allegations against the accused and alleged that the accused committed sexual offence with her after administering some poisonous substance in cold drink at Hotel Satyam, Uttarkashi in 2014 and after that he again committed rape with her due to which she became pregnant in the year 2015; this is the concocted story to implicate the accused falsely; as per the FIR, no ingredients for the offence under Sections 376(2)(i) and 376(2)(n) of IPC are made against the accused; from the perusal of the FIR, it is clear that it was a consensual sex between the parties; the accused is serving in NBCC and there is no

chance of his absconding and tampering with the evidence.

Per contra, learned counsel for the State opposed the present bail application.

From the perusal of the FIR, it is clear that the prosecutrix and the accused were living together since 2014; they made physical relationship; the application was submitted to Uttarakhand State Commission for Women on 18.07.2019 by the informant, which shows that the marriage has been performed between the informant and the accused with Hindu rites on 01.10.2017; it was a love marriage between the parties while the present FIR was lodged on 18.12.2019, which shows that the prosecutrix did not give any information to the police authority earlier while both were living together since 2014 and they were living as husband and wife since 01.10.2017; the accused is an employee in NBCC; charge sheet has already been filed in the matter; the accused is languishing in jail since 21.01.2020 and there is no chance of tampering with the evidence.

Considering the aforesaid facts, without expressing any opinion as to the final merits of the case, this Court is of the view that it is a fit case for bail and the present applicant deserves bail at this stage. Accordingly, the present bail application moved by the applicant is allowed.

Let the applicant be released on bail, on his executing a personal bond and furnishing two sureties, each of the like amount, to the satisfaction of the CJM/Court concerned.

It is, however, clarified that the observations made by this Court, hereinabove, are exclusively for the purpose of disposal of bail application and the same shall, in no manner, affect the trial proceedings.

Present bail application as well as pending application, if any, stands disposed of accordingly.

(R.C. Khulbe, J.)

29.04.2020