

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 31394 of 2022

Applicant :- Rajendra

Opposite Party :- State of U.P.

Counsel for Applicant :- Irshad Ahmad

Counsel for Opposite Party :- G.A.,Mahendra Singh

Hon'ble Mrs. Sadhna Rani (Thakur),J.

Heard learned counsel for the applicant, learned counsel for the first informant, learned A.G.A. and perused the record.

The bail application under Section 439 Cr.P.C. has been moved by the applicant - Rajendra to enlarge him on bail in Case Crime No. 604 of 2021 under Sections 376D, 504 I.P.C. Police Station Bhajoi, District Sambhal.

It is submitted by the learned counsel for the applicant that in the FIR dated 26.10.2021 there is allegation of rape on the first informant Rashmi against the present applicant and two other co-accused persons. In fact, the husband of the first informant and his companions had raped the wife of the present applicant on 14.10.2021. The husband of the present first informant was arrested by the police and because of this only, the applicant has been falsely implicated in the case. In the medical report no injury is found on the person of the victim. The applicant is languishing in jail since 06.04.2021. Hence, prayer for bail is made.

Learned counsel for the first informant has opposed the bail application on the ground that in the statement under Sections 161 and 164 Cr.P.C. both, the victim has reiterated the allegation of rape against the present applicant also. Further, there is criminal history of one case against the present applicant.

From perusal of the record, it is found that the victim is 22 years married lady, whose husband had been implicated in an offence under Section 376D IPC along with other co-accused persons by the wife of the present applicant. The incident was shown to be dated 14.10.2021 and the FIR of the incident was lodged on 24.10.2021. The present FIR has been lodged by the wife of Rajendra, who is an

accused in Case Crime No. 602 of 2021. The present FIR has been lodged on 26.10.2021 and the incident is shown to be dated 25.10.2021. The criminal history against the applicant shown in the case is regarding the case which is filed by the prosecution side persons. Co-accused Shyoraj and Kallu @ Tejpal having identical role have been granted bail by the coordinate bench of this Court.

After perusing the record in the light of the submissions made at bar and taking an overall view of all the facts and circumstances of this case, the nature of accusations, severity of punishment in case of conviction, the period of detention already undergone, the unlikelihood of early conclusion of trial without commenting on the merits of the case, this Court is of the view that the applicant may be enlarged on bail.

The bail application is allowed.

Let the applicant **Rajendra s/o Kalyan** involved in Case Crime No. 604 of 2021 under Sections 376D, 504 I.P.C. Police Station Bhajoi, District Sambhal be released on bail on his furnishing personal bonds and two sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:-

1. The applicant will not tamper with the evidence.
2. The applicant will not indulge in any criminal activity.
3. The applicant will not pressurize/intimidate the prosecution witnesses and will co-operate in the trial.
4. The applicant will appear regularly on each and every date fixed by the trial court unless his personal appearance is exempted through counsel by the court concerned.

In case of breach of any conditions mentioned above, the trial court will be at liberty to cancel the bail of the applicant.

Order Date :- 30.11.2022

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