

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52622 of 2021

Applicant :- Solanki Sharma

Opposite Party :- State of U.P.

Counsel for Applicant :- Ardhendu Shekhar Sharma, Ram Babu Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Raj Beer Singh, J.

Heard learned counsel for the applicant, learned AGA for the State and perused the record.

It has been argued by learned counsel for the applicant that applicant is innocent and he has not committed any offence. It has been stated that prosecutrix is a mature and married lady aged 22 years, and that in FIR, the prosecutrix has alleged that applicant and co-accused have come at her home for demanding money from her husband and thereafter applicant has committed rape upon her, whereas in her statement under Section 161 Cr.P.C., she has stated that all the three accused persons have forcibly took her to agriculture land and there applicant committed rape upon her. Similarly in her statement under Section 164 Cr.P.C., she has developed another version and stated that she was taken to a garden in a vehicle and her children were also with him and she was made unconscious and thereafter bad act was done with her. Learned counsel submitted that after recording her statement under Section 164 Cr.P.C., prosecutrix has made a supplementary statement to the Investigating Officer, wherein she has stated that there was a dispute on the issue of money between applicant and her husband and that she has lodged this false case against the applicant at instance of her husband and other persons. In view of that statement, police have submitted Final Report against

the applicant but Court took cognizance and summoned the applicant. It has further been submitted that during trial, statement of prosecutrix has already been recorded, wherein she has clearly stated that no such incident has taken place with her and no bad act was done with her and that she has lodged first information report of this case at the instance of her husband and other persons and that she has not made any allegation against the applicant. Lastly, it was submitted that the applicant is languishing in jail since 29.12.2020, having no criminal history and that in case the applicant is released on bail, he will not misuse the liberty of bail and will cooperate in trial.

Learned A.G.A. has opposed the prayer for bail.

Considering the submissions of learned counsel for the parties, facts of the case, nature of allegations, period of custody and all attending facts and circumstances of the case, without expressing any opinion on the merits of the case, the Court is of the view that a case for bail is made out. Hence, the bail application is hereby allowed.

Let the applicant Solanki Sharma involved in S.T. No. 647 of 2021, Case Crime No. 661 of 2020, under Section 376/34 IPC, P.S. Anoopshahar, District Bulandshahar, be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions:

1. The applicant shall not tamper with the evidence during the trial.
2. The applicant shall not pressurize/ intimidate the prosecution witness.
3. The applicant shall appear before the trial court on the date

fixed, unless personal presence is exempted.

4. The applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

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

In case of breach of any of the above condition, the Court below shall be at liberty to cancel bail of applicant in accordance with law.

Order Date :- 25.2.2022

A. Tripathi